

1 UNITED STATES BANKRUPTCY COURT

2 DISTRICT OF NORTH DAKOTA

3 Case No. 25-30002 (Jointly Administered)

4 - - - - - x

5 In the Matter of:

6

7 GENERATIONS ON 1st, LLC,

8

9 Debtor.

10 - - - - - x

11 Case No. 25-30003 (Jointly Administered)

12 - - - - - x

13 In the Matter of:

14

15 PARKSIDE PLACE, LLC,

16

17 Debtor.

18 - - - - - x

19 Case No. 25-30004

20 - - - - - x

21 In the Matter of:

22

23 The Ruins, LLC,

24

25 Debtor.

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<p>1 ----- X</p> <p>2</p> <p>3</p> <p>4 United States Bankruptcy Court</p> <p>5 Quentin N. Burdick U.S. Courthouse</p> <p>6 655 1st Ave. N.</p> <p>7 Fargo, ND 58102</p> <p>8</p> <p>9 Tuesday, November 25, 2025</p> <p>10 8:29 AM</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 B E F O R E :</p> <p>22 H O N S H O N H A S T I N G S</p> <p>23 U . S . B A N K R U P T C Y J U D G E</p> <p>24</p> <p>25 E C R O : U N K N O W N</p>	<p>1 A P P E A R A N C E S :</p> <p>2</p> <p>3 T H E D A K O T A B A N K R U P T C Y F I R M</p> <p>4 Attorney for Debtors</p> <p>5 1630 First Avenue North, Suite B</p> <p>6 Fargo, ND 58102-4246</p> <p>7</p> <p>8 B Y : M A U R I C E V E R S T A N D I G</p> <p>9 C H R I S T I A N N A A . C A T H C A R T</p> <p>10</p> <p>11 V O G E L L A W F I R M</p> <p>12 Attorneys for Red River State Bank</p> <p>13 218 Northern Pacific Avenue</p> <p>14 Fargo, ND 58102</p> <p>15</p> <p>16 B Y : K E S H A T A N A B E</p> <p>17 C A R E N W . S T A N L E Y</p> <p>18 D R E W J . H U S H K A</p> <p>19</p> <p>20 D A V E N P O R T E V A N S H U R W I T Z &amp; S M I T H L L P</p> <p>21 Attorney for Red River State Bank</p> <p>22 206 West 14th Street</p> <p>23 Sioux Falls, SD 57101-1030</p> <p>24</p> <p>25 B Y : A N T H O N Y M . H O H N</p>
Page 3	Page 5
<p>1 HEARING re Motion by Red River State Bank to Convert Case</p> <p>2 from Chapter 11 to 7 filed 09/26/2025 (Doc. 109)</p> <p>3</p> <p>4 HEARING re Joinder by Watertown Development Company to Red</p> <p>5 River State Bank's Motion to Convert Case from Chapter 11 to</p> <p>6 7 filed 10/10/2025 (Doc. 131)</p> <p>7</p> <p>8 HEARING re Objection by Debtor to Red River State Bank's</p> <p>9 Motion to Convert Case from Chapter 11 to Chapter 7 filed</p> <p>10 10/17/2025 (Doc. 143)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25 Transcribed by: Sonya Ledanski Hyde</p>	<p>1 K D L A W , P L L C</p> <p>2 Attorney for D&amp;M Industries, Inc.</p> <p>3 3429 Interstate Boulevard</p> <p>4 P.O. Box 9231</p> <p>5 Fargo, ND 58106-9231</p> <p>6</p> <p>7 B Y : J O H N M . K R I N G S , J R .</p> <p>8</p> <p>9 W O O D S F U L L E R S H U L T Z &amp; S M I T H P C</p> <p>10 Attorney for Watertown Development Company</p> <p>11 300 South Phillips Avenue, Suite 300</p> <p>12 Sioux Falls, SD 57104</p> <p>13</p> <p>14 B Y : J O R D A N J . F E I S T</p> <p>15</p> <p>16 B A S S F O R D R E M E L E</p> <p>17 Attorney for Diamond Wall Systems</p> <p>18 Fifth Street Towers</p> <p>19 100 South 5th Street, Suite 1500</p> <p>20 Minneapolis, MN 55402</p> <p>21</p> <p>22 B Y : J E F F R E Y D . K L O B U C A R</p> <p>23</p> <p>24</p> <p>25</p>

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1	I N D E X				1	THE COURT: Okay. The court receives Docket 175.			
2	PAGE				2	(Exhibit 175 entered into evidence)			
3					3	THE COURT: All right.			
4	WITNESS(ES):	DX	CX	RDX RCX	4	MS. STANLEY: And then the second one, or two out			
5	DANIELLE HARLESS				5	of three, was ECF 176, which is the second declaration of			
6	By Ms. Tanabe	9	174		6	Clay Greenwood, First Community Credit Union, certifying			
7	By Mr. VerStandig	122	189		7	bank records.			
8	BARRY MATSON				8	THE COURT: Okay, and were there any others? And			
9	By Mr. VerStandig	191			9	I'll just take them all at one time.			
10	By Mr. Hushka	195			10	MR. VERSTANDIG: We would also stipulate to the			
11	JASON BIGGINS				11	attachment to ECF 177, but not to the affidavit itself.			
12	By Mr. VerStandig	198			12	MS. STANLEY: And that was my understanding as			
13	MULINDA CRAIG				13	well, that it would be Exhibits A through I only.			
14	By Mr. VerStandig	203			14	THE COURT: Okay. So, Mr. VerStandig, the debtors			
15	By Ms. Stanley	218			15	agree that I can receive ECF 176, and only the attachments,			
16					16	Exhibit A through I, of ECF 177.			
17	E X H I B I T S				17	MR. VERSTANDIG: Yes, Your Honor.			
18	NO.	DESCRIPTION		PAGE	18	THE COURT: Okay. The court receives ECF 176 and			
19	ECF 175	Aarestad Declaration		8	19	the attachments to ECF 177.			
20	ECF 176	Greenwood Second Declaration		8	20	(Exhibits 176 and 177-A-I entered into evidence)			
21	ECF 177	Attachments A - I		8	21	THE COURT: What else?			
22	ECF 181	Second Amended Plan		93	22	MS. STANLEY: Ms. Tanabe is going to call the			
23	ECF 182-2	Photographs		216	23	first witness, I believe.			
24					24	THE COURT: Oh, okay.			
25					25	MS. STANLEY: I don't have any more housekeeping.			

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1	P R O C E E D I N G S				1	THE COURT: All right. Are there any other			
2	THE COURT: All right. So we're back on the				2	housekeeping matters?			
3	record with Bankruptcy Case Number 25-30004, In re The				3	All right. Ms. Tanabe, feel free to call your			
4	Ruins. And when we left off, I think the Red River State				4	next witness.			
5	Bank was getting ready to call its next witness. Am I right				5	MS. TANABE: Thank you, Your Honor. I'm going to			
6	about that?				6	call Danielle Harless to the stand, please.			
7	MS. TANABE: You are correct.				7	THE COURT: Ms. Harless, I'll have you come stand			
8	MS. STANLEY: And if I might interrupt, there were				8	in front of the clerk and be sworn.			
9	just one housekeeping matter.				9	CLERK: Please state your name for the record.			
10	THE COURT: Okay.				10	MS. HARLESS: Danielle Harless.			
11	MS. STANLEY: Mr. VerStandig and I had discussed				11	CLERK: Do you solemnly swear that the testimony			
12	admission of a couple of exhibits.				12	you are about to give in this case will be the truth, the			
13	THE COURT: Oh, great. Great. That's wonderful.				13	whole truth and nothing but the truth, so help you God?			
14	MS. STANLEY: Hopefully. This was the declaration				14	MS. HARLESS: I do.			
15	of Charles Aarestad certifying bank records.				15	CLERK: Please take the stand.			
16	THE COURT: Okay.				16	THE COURT: Oh, you know the drill. I love that.			
17	MS. STANLEY: So that was ECF 175. Sorry, I				17	All right. I'm going to have you state your name again for			
18	didn't mean to blindside you there, Mr. VerStandig.				18	the record just so I can hear you.			
19	THE COURT: Yeah. Yeah. Okay.				19	MS. HARLESS: Danielle Harless.			
20	MR. VERSTANDIG: No, you're good. That one we had				20	THE COURT: Perfect.			
21	discussed and absolutely.				21	All right. Ms. Tanabe, you may proceed.			
22	THE COURT: All right. So the parties agree that				22	MS. TANABE: Thank you, Your Honor.			
23	ECF 175 may be received. Have I got that right, Mr.				23	DIRECT EXAMINATION OF DANIELLE HARLESS			
24	VerStandig?				24	BY MS. TANABE:			
25	MR. VERSTANDIG: Yes.				25	Q Good morning, Ms. Harless.			

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<p>1 A Good morning.</p> <p>2 Q Could you please state your full name one more time for</p> <p>3 the record?</p> <p>4 A Danielle Harless.</p> <p>5 Q And can you describe your educational background?</p> <p>6 A I graduated from Concordia College in 2008 with a dual</p> <p>7 major in international business and Spanish, and I went to</p> <p>8 graduate school of banking at University of Wisconsin, and</p> <p>9 that's a master's degree in banking.</p> <p>10 Q And what is your current occupation?</p> <p>11 A I'm a community banker.</p> <p>12 Q And how long have you worked in banking?</p> <p>13 A Well, I was a teller in high school, but full-time</p> <p>14 since 2008.</p> <p>15 Q And how long have you worked for Red River State Bank</p> <p>16 specifically?</p> <p>17 A Full-time since July of 2008.</p> <p>18 Q And how would you describe your experience or</p> <p>19 familiarity with commercial real estate lending?</p> <p>20 A I'm quite familiar with it. I started my career when</p> <p>21 the mortgage crisis was kind of unfolding. So I lend on a</p> <p>22 daily basis. I do special assets. In a smaller bank, you</p> <p>23 wear a lot of different hats. And so my current role is I</p> <p>24 do a lot of our training and supervision. So I don't know</p> <p>25 if that answers your question.</p>	<p>1 BY MS. TANABE:</p> <p>2 Q Can you just take a look at the table that's on Page 6</p> <p>3 of 84? Let me know if you recognize that.</p> <p>4 A I recognize it.</p> <p>5 Q Okay, and were you present when Charles Aarestad, also</p> <p>6 a banker at Red River State Bank, previously testified that</p> <p>7 the amounts on this table were due and owing as of the</p> <p>8 petition date in this case?</p> <p>9 A Yes, I was.</p> <p>10 Q And do you agree with Charles's testimony?</p> <p>11 A Yes, I do.</p> <p>12 Q And do the per diem rates of interest look correct to</p> <p>13 you?</p> <p>14 A They look correct.</p> <p>15 Q What was the interest rate? Do you know the interest</p> <p>16 rate on the first note?</p> <p>17 A 4.25 percent.</p> <p>18 Q Okay, and the second note?</p> <p>19 A 4.6 percent.</p> <p>20 Q And the third note?</p> <p>21 A 7.75 percent.</p> <p>22 Q Okay, and are you familiar with the declarations that</p> <p>23 Charles Aarestad submitted in this case discussing the three</p> <p>24 Ruins notes?</p> <p>25 A Yes, I am.</p>
Page 11	Page 13
<p>1 Q It does, and just for the benefit of us who are not</p> <p>2 professional full-time bankers, what did you mean by special</p> <p>3 assets?</p> <p>4 A When credits start to move sideways, like death,</p> <p>5 divorce, things that maybe weren't the customer's fault all</p> <p>6 the time, I come in and I assist with helping fix a</p> <p>7 situation, provide solutions.</p> <p>8 Q So you frequently loan to businesses?</p> <p>9 A Yes.</p> <p>10 Q Okay, and do you know Jesse Craig?</p> <p>11 A Yes. He's a customer of Red River State Bank.</p> <p>12 Q And are you familiar with The Ruins project in</p> <p>13 Watertown, South Dakota?</p> <p>14 A Yes, I am.</p> <p>15 Q And are you familiar with the loan history between Red</p> <p>16 River State Bank and The Ruins?</p> <p>17 A The loan history between Red River -- yes.</p> <p>18 Q So you're personally familiar with that customer</p> <p>19 relationship and those loans?</p> <p>20 A Yes.</p> <p>21 MS. TANABE: Okay. Sharon, could you please pull</p> <p>22 up the amended proof of claim filed by Red River State Bank?</p> <p>23 It would have been filed on September 12, 2025. It's on the</p> <p>24 claims register. Great, and could you please scroll to Page</p> <p>25 6 out of 84? There we go. That table there.</p>	<p>1 MS. TANABE: Just for the court's benefit, that's</p> <p>2 ECF Numbers 84, 85 and 86.</p> <p>3 BY MS. TANABE:</p> <p>4 Q Okay. Did you recently assist with drafting a</p> <p>5 declaration for yourself that was filed before this court?</p> <p>6 A Yes, I did.</p> <p>7 Q And did that declaration distribute, or discuss, rather</p> <p>8 distributions of Ruins note proceeds?</p> <p>9 A Distributions meaning?</p> <p>10 Q Sorry. Did that declaration discuss loan disbursements</p> <p>11 for the three Ruins notes?</p> <p>12 A Yes, it did.</p> <p>13 Q And did you sign that declaration?</p> <p>14 A I did.</p> <p>15 Q And to the best of your knowledge, the information in</p> <p>16 that declaration is true and correct?</p> <p>17 A To my understanding of what I know, yes.</p> <p>18 Q Okay, and how did you form your opinions about what's</p> <p>19 in that declaration? What documents did you review to</p> <p>20 prepare that declaration?</p> <p>21 A Would you be able to pull the declaration up?</p> <p>22 MS. TANABE: Sure. Madam Clerk, could you pull up</p> <p>23 Docket Number 177, please?</p> <p>24 THE WITNESS: My apologies. I reviewed a lot of</p> <p>25 documents.</p>

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<p>1 MS. TANABE: No, that's fine. And Sharon, if it's</p> <p>2 not too much trouble, could you pull up Docket 84 side by</p> <p>3 side? We're going to get to both of them, so it may be</p> <p>4 helpful to just have them both handy. Oh, with 84. Thank</p> <p>5 you. Sharon, I'll just ask you to scroll slowly through</p> <p>6 Docket Number 177.</p> <p>7 BY MS. TANABE:</p> <p>8 Q And Danielle, could you just peruse that as we're going</p> <p>9 to refresh your recollection?</p> <p>10 A Yep.</p> <p>11 Q Is that helpful?</p> <p>12 A It is. Yep.</p> <p>13 Q Okay. Would it help if we parked on Page 3? There we</p> <p>14 go. Does this refresh your recollection?</p> <p>15 A It does. Thank you.</p> <p>16 Q Good. Okay. So to the best of your knowledge, the</p> <p>17 information in this declaration is true?</p> <p>18 A Yes, it is.</p> <p>19 Q And how did you form that opinion? What sorts of</p> <p>20 documents did you review?</p> <p>21 A Specifically to Page 3 or the document --</p> <p>22 Q In the declaration. Did you subpoena documents from</p> <p>23 other banks?</p> <p>24 A Yes, we subpoenaed -- in the bankruptcy, we subpoenaed</p> <p>25 -- we largely -- we subpoenaed FCCU, or First Community</p>	<p>1 Q And how many loan disbursements or draws -- are those</p> <p>2 words synonymous, by the way? If I say loan disbursement</p> <p>3 and draws, does that mean the same thing to you?</p> <p>4 A Loan disbursements is what my -- or what I normally use</p> <p>5 for the language. They mean the same thing, but they're</p> <p>6 slightly different.</p> <p>7 Q Okay. So loan disbursement is money from The Ruins</p> <p>8 first note that's being disbursed to the customer. Is that</p> <p>9 your understanding of what's in the spreadsheet?</p> <p>10 A In the spreadsheet on the right?</p> <p>11 Q Yes, in Docket Number 84.</p> <p>12 A Yeah. So, like, on March 11th of 2022, there's a</p> <p>13 \$2,952,702.33 disbursement, which was Draws 4 through 6.</p> <p>14 Q Okay. Perfect. And so is there a second disbursement</p> <p>15 on this spreadsheet? Loan disbursement?</p> <p>16 A Yep. It's in a different format than I'm used to</p> <p>17 seeing because I look at our accounting core. That's what</p> <p>18 I'm used to seeing. So on March 23rd of 2022, there was a</p> <p>19 disbursement for \$181,947.80, and that correlated to Draw</p> <p>20 Number 7 and was deposited in the Red River State Bank Ruins</p> <p>21 account.</p> <p>22 Q And what is the line entry April 8, 2022? Do you</p> <p>23 recognize that?</p> <p>24 A Yep. That was Draw Number 8 done on April 8 for</p> <p>25 \$2,274,820.42 deposited in the Red River State Bank Ruins</p>
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<p>1 Credit Union. I'm going to work on my acronyms.</p> <p>2 THE COURT: Thank you.</p> <p>3 THE WITNESS: My apologies. First Community</p> <p>4 Credit Union.</p> <p>5 THE COURT: Okay.</p> <p>6 THE WITNESS: There was 24 files, over 25,000</p> <p>7 pages, over 15,000 transaction lines that I reviewed related</p> <p>8 to putting together this document.</p> <p>9 BY MS. TANABE:</p> <p>10 Q And you reviewed your bank's own records as well?</p> <p>11 A Yes.</p> <p>12 Q Okay. Thank you. So on this, I'm going to switch now</p> <p>13 to looking at Docket Number 84. That's on the other side of</p> <p>14 your screen.</p> <p>15 MS. TANABE: Sharon, could you please scroll to</p> <p>16 Exhibit F? That starts at Page 57. There we go.</p> <p>17 BY MS. TANABE:</p> <p>18 Q This might be a little hard to see, but are you</p> <p>19 familiar with this spreadsheet?</p> <p>20 A Yes.</p> <p>21 Q And what does it show? Do you remember what Ruins note</p> <p>22 this is for?</p> <p>23 A Based on the dates, it's the first Ruins note.</p> <p>24 Q Okay, and --</p> <p>25 A It's the loan transcript of sorts.</p>	<p>1 account.</p> <p>2 Q Okay, and are there any other loan disbursements on</p> <p>3 this chart?</p> <p>4 A There was one on May 10th. The font is really small.</p> <p>5 So my eyes are getting old.</p> <p>6 Q Yes.</p> <p>7 A Yeah.</p> <p>8 Q So I may be wrong when I said there were three. I</p> <p>9 misspoke. So I think there are five on this spreadsheet,</p> <p>10 are there not? One, two, three, four, five. So on May</p> <p>11 10th, what do you see at that line item?</p> <p>12 A One million four hundred -- I'm going to look at the</p> <p>13 left-hand side because the text is bigger. \$1,478,434.10,</p> <p>14 and that was on May 10th of 2022, for Draw 9. Nine, I</p> <p>15 believe.</p> <p>16 Q Okay.</p> <p>17 A Following the lines here, yeah. Draw 9 that was</p> <p>18 deposited in the Red River State Bank Ruins account.</p> <p>19 Q And is there one more loan disbursement on this chart?</p> <p>20 A Yes, on June 10th of 2022, for \$852,095.36 that was</p> <p>21 Draw 10. And that was deposited in the Red River State Bank</p> <p>22 Rooms account.</p> <p>23 Q Okay. Thank you.</p> <p>24 MS. TANABE: And Sharon, could you go to Exhibit</p> <p>25 C? That should be Page 7 out of 50. Let's see. In 84-1,</p>

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<p>1 Exhibit C-1. There we go.</p> <p>2 BY MS. TANABE:</p> <p>3 Q Do you recognize the document on your right that's</p> <p>4 labeled Exhibit C-1, Danielle?</p> <p>5 A Yes, that's a wire transfer request form. That was --</p> <p>6 Q Okay, and -- go ahead.</p> <p>7 A That was tied to the first draw.</p> <p>8 Q The first Ruins note?</p> <p>9 A The first Ruins disbursement on the -- so the first</p> <p>10 Ruins note, Draws 4 through 6, that was the disbursement to</p> <p>11 the First Community Credit Union Craig Properties account.</p> <p>12 Q And how much is this? What's the amount and date of</p> <p>13 this disbursement?</p> <p>14 A The amount and date?</p> <p>15 Q Yes.</p> <p>16 A The amount is \$2,952,702.33, and the date was March</p> <p>17 11th of 2022.</p> <p>18 Q And does that dollar amount and date match the table of</p> <p>19 disbursements on the left side of your screen that's Docket</p> <p>20 Number 177?</p> <p>21 A It does.</p> <p>22 Q And what's the bank standard procedure when disbursing</p> <p>23 funds by wire like this transfer was? Who's the info</p> <p>24 supplied by?</p> <p>25 A If you could scroll down a little bit on the wire</p>	<p>1 established for the customer. And then when a wire transfer</p> <p>2 request that comes in, not in person, so they email it, we</p> <p>3 don't know who the person on the other end is that's</p> <p>4 emailing us the wire transfer instructions. So we actually</p> <p>5 have to use our contact information on file to contact the</p> <p>6 customer to make sure that we're actually dealing with the</p> <p>7 right person and the money gets to where it needs to go. So</p> <p>8 that's the purpose of a wire callback, is to ensure</p> <p>9 integrity in the system.</p> <p>10 THE COURT: Thanks.</p> <p>11 BY MS. TANABE:</p> <p>12 Q Okay, and so can you tell from this form where the</p> <p>13 first disbursement, loan disbursement for the first Ruins</p> <p>14 note was sent to by your bank?</p> <p>15 A Yes. It would have been sent to Craig Properties LLC</p> <p>16 at First Community Credit Union. It was up on the form.</p> <p>17 Q And you're confident that Jesse Craig provided these</p> <p>18 instructions to you based on your callback procedure?</p> <p>19 A He would have provided it to Charles Aarestad, as he's</p> <p>20 the one that signed the originating loan officer signature.</p> <p>21 Q That's what the signature in the middle of the page</p> <p>22 indicates?</p> <p>23 A Yes, that he -- he's ensuring that we follow our normal</p> <p>24 procedures in authorizing the wire from an internal</p> <p>25 standpoint.</p>
Page 19	Page 21
<p>1 transfer so I can see. So wires can be done in person or</p> <p>2 not in person. And this wire, based on how the form is</p> <p>3 filled out was done not in person. And we received a voided</p> <p>4 check from Jesse Craig to provide payment instructions for</p> <p>5 where he wanted the funds to go. So there would have been a</p> <p>6 voided check attached to this.</p> <p>7 And when we send the wire, if it's not in person, we do</p> <p>8 wire callbacks. And we did a wire callback at 8:18 a.m. to</p> <p>9 Jesse to the number that would have been on file for the</p> <p>10 customer. It's identity theft protection. Wire fraud is a</p> <p>11 really high area of concern for banks. So there's a lot of</p> <p>12 procedures that go into wire transfers. So we're very</p> <p>13 regimented how we handle that.</p> <p>14 Q So you --</p> <p>15 THE COURT: Before you --</p> <p>16 MS. TANABE: Go ahead.</p> <p>17 THE COURT: I would like to know what a wire</p> <p>18 callback is before you proceed with your next questions,</p> <p>19 please.</p> <p>20 THE WITNESS: A wire callback is we use the</p> <p>21 customer information that we validated on file as the</p> <p>22 accurate information for the customer. So when they set up</p> <p>23 an account, they give us their contact information. We</p> <p>24 verify their identity through different means, depending on</p> <p>25 what the customer has available. So we have that</p>	<p>1 Q So why wasn't this loan dispersed into a Red River</p> <p>2 State Bank account? Is that also standard procedure?</p> <p>3 MR. VERSTANDIG: Objection, relevance. Your</p> <p>4 Honor, we're here on unusual circumstances and whether or</p> <p>5 not there are grounds that would merit the appointment of a</p> <p>6 Chapter 11 trustee. The cause portion of this hearing was</p> <p>7 held several weeks ago and concluded. I've been trying to</p> <p>8 give some leeway here, but I don't see what possible</p> <p>9 correlation there is between this line of questions and the</p> <p>10 existence of unusual circumstances or the absence thereof.</p> <p>11 THE COURT: So --</p> <p>12 MS. TANABE: May I respond?</p> <p>13 THE COURT: Sure.</p> <p>14 MS. TANABE: Okay. So it's directly relevant --</p> <p>15 or I'm sorry, did I cut Your Honor off? Were you planning</p> <p>16 to speak?</p> <p>17 THE COURT: You get to speak first.</p> <p>18 MS. TANABE: Okay. Great. So the debtor does</p> <p>19 have the burden in this case of proving the existence of</p> <p>20 unusual circumstances. And the purpose of this hearing is</p> <p>21 to determine what is the appropriate remedy, if there is, in</p> <p>22 fact, cause, a finding of cause. We're not using this to</p> <p>23 show cause. We're using this to demonstrate what the</p> <p>24 appropriate remedy is. And as our questioning unfolds, it</p> <p>25 will become clear why this goes to the inadequacy of the</p>

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<p>1 proposed remedy in the debtor's new plan of simply</p> <p>2 appointing an estate representative. It will become clear.</p> <p>3 We're just trying to -- we're anticipating other objections,</p> <p>4 so trying to lay some foundation here for what she knows,</p> <p>5 how she knows it, and what the context leading up to the</p> <p>6 evidence that we're getting to will be.</p> <p>7 THE COURT: Okay. So I'm going to overrule the</p> <p>8 relevance based on the fact that, first, the proposal is for</p> <p>9 this witness to lay some foundation. Secondly, I never</p> <p>10 closed the hearing. We're here on a motion to dismiss or</p> <p>11 convert, and part of the statute allows me to consider</p> <p>12 unusual circumstances. I'm going to consider from the</p> <p>13 moment we had our first hearing, where I got an introduction</p> <p>14 from all the parties regarding the motion to convert or</p> <p>15 dismiss all the way through the end to consider all the</p> <p>16 elements that are in the statute. So this is one big, long</p> <p>17 hearing. It's not parsed out into two separate.</p> <p>18 MR. VERSTANDIG: Thank you, Your Honor.</p> <p>19 MS. TANABE: Thank you, Your Honor. That's</p> <p>20 helpful. I'm just going to look at my notes to see where I</p> <p>21 was. One moment.</p> <p>22 BY MS. TANABE:</p> <p>23 Q Okay. I think, Ms. Harless, I was asking why was this</p> <p>24 sent, or what do you recall about why this was dispersed to</p> <p>25 an account at a bank other than Red River?</p>	<p>1 BY MS. TANABE:</p> <p>2 Q And Danielle, do you recognize these two documents?</p> <p>3 A Those would be internal tickets of ours.</p> <p>4 Q Okay, and are those internal tickets related to the</p> <p>5 second disbursement for The Ruins notes, the first Ruins</p> <p>6 note?</p> <p>7 A Yes. They would have been related to Draw 7 on the</p> <p>8 first Ruins note. The bottom ticket is the loan debit. So</p> <p>9 that would be the loan advance. That would be what creates</p> <p>10 the disbursement. And then the top ticket would be the</p> <p>11 credit, a checking account credit. And that moved the funds</p> <p>12 in full to the Red River State Bank Ruins account.</p> <p>13 Q And what date did this transaction happen on?</p> <p>14 A 3/23 of '22.</p> <p>15 Q And what dollar amount was involved?</p> <p>16 A \$181,947.80.</p> <p>17 Q And this was deposited to Red River?</p> <p>18 A Yes. This is a set of internal transactions. So it's</p> <p>19 going from a loan internally to a checking account</p> <p>20 internally.</p> <p>21 Q And does that information on these documents in Exhibit</p> <p>22 C-2 match the information about this draw on the left side</p> <p>23 of the screen in Docket Number 177?</p> <p>24 A It does match.</p> <p>25 Q Thank you.</p>
Page 23	Page 25
<p>1 A By looking at the dates, March 11th, The Ruins account</p> <p>2 wasn't open until March 17th of 2022. So construction is a</p> <p>3 timely -- timeliness is important. There would have been</p> <p>4 contractors waiting to get payment. So to help with the</p> <p>5 overall situation, to help the customer, we would have wired</p> <p>6 the money to get the money in his hands faster, to pay his</p> <p>7 contractors faster, so if that answers your question.</p> <p>8 Q So there were special circumstances that allowed this</p> <p>9 to be dispersed to an account other than The Ruins account?</p> <p>10 A Correct. And with Craig Development, Craig Properties,</p> <p>11 they're all controlled by the same equity or owner. It</p> <p>12 wouldn't be unusual, from my experience in banking, dealing</p> <p>13 with many, many, many commercial customers, it's not unusual</p> <p>14 that we would wire to a complimentary account like that</p> <p>15 (indiscernible) The Ruins.</p> <p>16 MS. TANABE: Okay. On the right side of the</p> <p>17 screen, Sharon, could we scroll down to Exhibit C-2? I</p> <p>18 believe that starts at Page 18 of 50 in the PDF.</p> <p>19 THE COURT: I think she's looking at 18 of the</p> <p>20 court's stamping on the top and not the actual PDF itself.</p> <p>21 MS. TANABE: Correct. So I think it's a little</p> <p>22 hard to see. It overlaps at the top. So it would be 84-1,</p> <p>23 Exhibit C-2.</p> <p>24 MR. HUSHKA: Twenty-six, I think.</p> <p>25 MS. TANABE: There we go. Thank you.</p>	<p>1 MS. TANABE: Sharon, could you scroll down to</p> <p>2 Exhibit C-3 on the right side? Thank you.</p> <p>3 BY MS. TANABE:</p> <p>4 Q And do you recognize these documents, Danielle?</p> <p>5 A Yep. Similar to before, the bottom one is the loan</p> <p>6 disbursement, the debit creating the money and then off of</p> <p>7 Draw 8 and depositing it in the Red River State Bank</p> <p>8 checking account for he same sum for The Ruins.</p> <p>9 Q So you said these are deposit slips for Draw 8 or the</p> <p>10 third disbursement on the first Ruins note?</p> <p>11 A Correct.</p> <p>12 Q And does the information on the right-hand side of the</p> <p>13 screen match the information in the table on the left side</p> <p>14 of your screen?</p> <p>15 A It does match.</p> <p>16 Q And that's for the Draw Number 8, you said?</p> <p>17 A Draw 8, correct.</p> <p>18 Q Thank you.</p> <p>19 MS. TANABE: Sharon, could you scroll to C-4,</p> <p>20 please, on the right side?</p> <p>21 BY MS. TANABE:</p> <p>22 Q Danielle, do you recognize these documents?</p> <p>23 A Yep. The bottom is the loan disbursement. And then</p> <p>24 the top is the checking account credit into The Ruins</p> <p>25 account for \$1,478,434.10 for Draw 9.</p>



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<p>1 Q For Draw Number 9. And what's this dated?</p> <p>2 A The stated amount? If I misspoke --</p> <p>3 Q Sorry. My question wasn't clear. What's the date of</p> <p>4 the transaction in the slips, the internal Red River slips</p> <p>5 that are on the right-hand side of your screen?</p> <p>6 A May 10th of 2022.</p> <p>7 Q Does the information in these slips match the</p> <p>8 information in the table on your left for May 10, 2022?</p> <p>9 A It does.</p> <p>10 Q Thank you.</p> <p>11 MS. TANABE: Sharon, could you keep these two</p> <p>12 open? But I'd like -- nope, sorry. On the right-hand side,</p> <p>13 I'd like to replace 84-1 with 85-1. And can you scroll down</p> <p>14 to Exhibit G? I think that's in the blue marking at the top</p> <p>15 of the page. You'll see Page 19 of 19. There we go. Thank</p> <p>16 you. Is it possible to zoom in on the right? Thank you.</p> <p>17 BY MS. TANABE:</p> <p>18 Q Okay. Do you recognize this document, Danielle?</p> <p>19 A Yes.</p> <p>20 Q Which of The Ruins notes is this table for?</p> <p>21 A The second Ruins note.</p> <p>22 MS. TANABE: I'm sorry. Actually, I think I</p> <p>23 missed something. Could you go back to exhibit, or sorry,</p> <p>24 Document Number 84-1 on the right? I think we need Exhibit</p> <p>25 C-5. Thank you.</p>	<p>1 Q And how many loan disbursements does this table show</p> <p>2 were made for the second Ruins note?</p> <p>3 A How many disbursements were made in total?</p> <p>4 Q Yes. How many loan disbursements from Red River State</p> <p>5 Bank were made for the second Ruins note in this table?</p> <p>6 A Three.</p> <p>7 Q And does the table indicate which draws were made under</p> <p>8 the second Ruins note?</p> <p>9 A Eleven, 12 and 13 is the first three lines.</p> <p>10 Q And what are the dates and amounts associated with</p> <p>11 Ruins Draw Number 11?</p> <p>12 A Ruins Draw Number 11 was done on August 1st of 2022, in</p> <p>13 an amount of \$1,268,944.90.</p> <p>14 Q And what is the date and amount associated with Draw</p> <p>15 Number 12?</p> <p>16 A Draw 12 was done on August 16th of 2022, in an amount</p> <p>17 of \$1,322,454.31.</p> <p>18 Q And what are the -- what's the amount associated with</p> <p>19 Ruins Draw Number 13?</p> <p>20 A The amount for Draw 13 is \$158,679 on August 31st of</p> <p>21 2022.</p> <p>22 Q Okay, and does that match -- the Draw Numbers 11, 12</p> <p>23 and 13 match the table on the left side of your screen?</p> <p>24 A Yes, it does.</p> <p>25 MS. TANABE: Okay. Let's go to Exhibit Number C</p>
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<p>1 BY MS. TANABE:</p> <p>2 Q Do you recognize these documents, Danielle?</p> <p>3 A In C-5?</p> <p>4 Q Yes.</p> <p>5 A Yes. The bottom is a loan disbursement off the loan</p> <p>6 and the debit created, then being credited into the checking</p> <p>7 account deposit above at the Red River State Bank Ruins</p> <p>8 account in an amount of \$852,095.36 on June 10th, June 10th</p> <p>9 of 2022.</p> <p>10 Q And does the information in the deposit slips on your</p> <p>11 right side or the transaction slips on the right side of</p> <p>12 your screen match the information for the line dated June</p> <p>13 10, 2022, on the left side of your screen?</p> <p>14 A It matches the line for Draw 10 for the first Ruins</p> <p>15 note.</p> <p>16 Q Okay. Thank you.</p> <p>17 MS. TANABE: All right. So now I think, Sharon,</p> <p>18 we could move to Document 85-1, Exhibit G.</p> <p>19 BY MS. TANABE:</p> <p>20 Q Okay. Do you recognize the document on the right-hand</p> <p>21 side of the screen?</p> <p>22 A Yes. It's the second Ruins note. It's a payment</p> <p>23 history.</p> <p>24 Q Which of The Ruins notes is this for?</p> <p>25 A The second Ruins note.</p>	<p>1 in 85-1. I think I should be page -- it should say Page 5</p> <p>2 of 19 on the top. There we go.</p> <p>3 BY MS. TANABE:</p> <p>4 Q Do you recognize this document, Danielle?</p> <p>5 A Yep, those are internal tickets.</p> <p>6 Q And which draw -- are these deposit slips for Draw</p> <p>7 Number 11?</p> <p>8 A The bottom is a loan debit, which then creates the</p> <p>9 offset for the checking account deposit for Draw 11 into The</p> <p>10 Ruins checking account at Red River State Bank in an amount</p> <p>11 of \$1,268,944.90 on August 2nd of 2022.</p> <p>12 Q Thank you. And does the information on the documents</p> <p>13 on the right side of your screen match the information about</p> <p>14 drought Draw Number 11 on the left side of your screen?</p> <p>15 A It does.</p> <p>16 MS. TANABE: All right, and Sharon, could you go</p> <p>17 to Exhibit D? There we go.</p> <p>18 BY MS. TANABE:</p> <p>19 Q Do you recognize this document?</p> <p>20 A That's a checking account statement at Red River State</p> <p>21 Bank.</p> <p>22 Q Okay, and what's the time period on this statement?</p> <p>23 A Essentially it's August, but it'd be July 29th of '22</p> <p>24 to August 31st of 2022.</p> <p>25 Q And if we scroll to the middle of this page where it</p>



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<p>1 says account credit transactions, does this document confirm</p> <p>2 that Draw Number 11 was deposited into this account?</p> <p>3 A Yep, on August -- so underneath the header account</p> <p>4 credit transactions in the middle, the first line item is on</p> <p>5 8/2 and that matches what's in the table.</p> <p>6 Q And does it confirm that Draw Number 12 was also</p> <p>7 deposited into The Ruins account at Red River State Bank?</p> <p>8 A Yep, it's the second line. That's Draw Number 12 on</p> <p>9 8/16.</p> <p>10 Q What's the date and amount?</p> <p>11 A The 8/16 of 2022, for \$1,322,454.31.</p> <p>12 Q And does the information on this document about Draws</p> <p>13 number 11 and 12 match the table of disbursements on the</p> <p>14 left-hand side of your screen?</p> <p>15 A It does match.</p> <p>16 Q Thank you. Let's stay on this for a moment. Does this</p> <p>17 document also confirm the date and amount of Draw Number 13?</p> <p>18 A Yes, it does. Line 3 matches what's in the table done</p> <p>19 on August 31st of 2022, \$158,679 for Draw 13.</p> <p>20 Q And that information on the document on the right</p> <p>21 matches the information in the table on the left about Draw</p> <p>22 Number 13?</p> <p>23 A Correct.</p> <p>24 Q Thank you.</p> <p>25 MS. TANABE: Let's see. Sharon, could you open --</p>	<p>1 A That was part of the subpoena documentation that came</p> <p>2 back from First Community Credit Union. I had to make sure</p> <p>3 -- they don't put decimals and commas. So I had to make</p> <p>4 sure that the number -- this shows the incoming credit or</p> <p>5 the deposit for the \$600,000 that the cashier's check funded</p> <p>6 into that deposit account.</p> <p>7 Q And so who is the depository bank on Exhibit D on the</p> <p>8 right-hand side?</p> <p>9 A First Community Credit Union. And this would be the</p> <p>10 Craig Development account.</p> <p>11 Q And if you compare the information in the document on</p> <p>12 the right, does it match the information about Draw 14 in</p> <p>13 the table on the left?</p> <p>14 A It does.</p> <p>15 Q Thank you. Okay, I'm going to go -- just focus your</p> <p>16 attention now on the left side of your screen, Danielle.</p> <p>17 That's Docket Number 177. So just to recap, for Draws 4</p> <p>18 through 14 on The Ruins notes, what was the total amount</p> <p>19 that the bank disbursed in loan disbursements for The Ruins</p> <p>20 project?</p> <p>21 A So for Draws 4 through 14, the total amount was</p> <p>22 \$11,090,000.01.</p> <p>23 Q Thank you.</p> <p>24 MS. TANABE: Okay. Sharon, I'm going to close the</p> <p>25 document on the right and the left and replace them both</p>
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<p>1 replace 85-1 with 86-1, please? Scroll to Exhibit C please,</p> <p>2 on the right-hand side. Thank you.</p> <p>3 BY MS. TANABE:</p> <p>4 Q Danielle, do you recognize this document?</p> <p>5 A Yes, it's a cashier's check. The top is the internal</p> <p>6 ticket and then the middle is a triplicate form. The middle</p> <p>7 is the credit or the customer copy. And then there's a</p> <p>8 cashier's check at the bottom.</p> <p>9 Q And who was this check payable to?</p> <p>10 A The check was payable to Craig Development.</p> <p>11 Q And is this check related to the third Ruins note?</p> <p>12 A Yes. This was what draw disbursement -- well, the last</p> <p>13 disbursement for The Ruins property, but Draw 14, these were</p> <p>14 the proceeds.</p> <p>15 Q And what's the date of the check?</p> <p>16 A The date of the check is February 17th of 2023.</p> <p>17 Q And does this match the information -- the information</p> <p>18 in the check match the information in the table for Draw 14?</p> <p>19 A Yes.</p> <p>20 MS. TANABE: Okay. Sharon, could you go to</p> <p>21 Exhibit D on the right? There we go. Thank you.</p> <p>22 BY MS. TANABE:</p> <p>23 Q Danielle, what is this document?</p> <p>24 A On the right?</p> <p>25 Q Correct.</p>	<p>1 with ECF 141, please. Go to Exhibit 14. Oh, sorry. It's</p> <p>2 actually The Ruins term sheet and I think the numbering on</p> <p>3 ECF is a little bit off. Could you go back one screen? Do</p> <p>4 you see what's -- it's Hyperlink 15 for Exhibit 14, Ruins</p> <p>5 term sheet. And you can close the left side of the screen.</p> <p>6 So we'll just have ECF 141. Thank you. Danielle -- can we</p> <p>7 scroll slowly through this, Sharon? Thank you.</p> <p>8 BY MS. TANABE:</p> <p>9 Q Danielle, do you recognize this document?</p> <p>10 A Yes. This is the term sheet for The Ruins project.</p> <p>11 Q And if we scroll up a little bit, is there a date on</p> <p>12 this document?</p> <p>13 A January 26th of 2021.</p> <p>14 Q And in your professional experience, is a term sheet</p> <p>15 like this meant to be a binding agreement?</p> <p>16 A No.</p> <p>17 Q Between the bank and its customer?</p> <p>18 A No. A term sheet --</p> <p>19 MR. VERSTANDIG: Objection. Sorry, I was a little</p> <p>20 slow getting off mute. I meant to do that a second earlier.</p> <p>21 Objection, calls for an expert opinion and calls for</p> <p>22 speculation.</p> <p>23 MS. TANABE: I'd be happy to rephrase the</p> <p>24 question.</p> <p>25 THE COURT: Okay. Then I'll sustain and you can</p>

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<p>1 try again.</p> <p>2 MS. TANABE: Okay. Thank you.</p> <p>3 BY MS. TANABE:</p> <p>4 Q Danielle, for your bank and your internal practices,</p> <p>5 would you have intended this document to be a binding</p> <p>6 agreement with your customer?</p> <p>7 MR. VERSTANDIG: Objection, calls for a legal</p> <p>8 conclusion, unless it's expressly limited to intent.</p> <p>9 MS. TANABE: I am asking what the bank's internal</p> <p>10 practice, what's customary for the bank. I'm getting to</p> <p>11 what was intended by the parties.</p> <p>12 THE COURT: I'm just going to invite you to</p> <p>13 rephrase so that the witness knows exactly what you're</p> <p>14 asking and so do I.</p> <p>15 MS. TANABE: Very good. I'll do that.</p> <p>16 BY MS. TANABE:</p> <p>17 Q Danielle, are you familiar with this document?</p> <p>18 A Yes.</p> <p>19 Q And what's the purpose of this document?</p> <p>20 A The purpose of this document is it's meant in a</p> <p>21 nonbinding way to communicate between two different parties,</p> <p>22 the creditor, which would be the bank, and a potential</p> <p>23 customer, generalized terms to make sure that everybody is</p> <p>24 on the same page for terms and conditions that are</p> <p>25 acceptable.</p>	<p>1 A So typically in commercial real estate, you have a</p> <p>2 construction phase and then you have a permanent phase. And</p> <p>3 the construction meaning, like it says, it's the</p> <p>4 construction of the project. It's to get the project like</p> <p>5 stabilized out and established time periods. There's</p> <p>6 different ways to skin a cat on these things. So this is</p> <p>7 just an example of one way, but -- and then the permanent</p> <p>8 phase is when the loan is actually amortizing principal and</p> <p>9 interest.</p> <p>10 So that's when the project's done and stabilized out</p> <p>11 and there's payments being made. So it's two different</p> <p>12 views because there's a life cycle that any new development</p> <p>13 has to go through. And so you've got to look at every phase</p> <p>14 and make sure what is being done is appropriate and works</p> <p>15 and is feasible.</p> <p>16 Q So at this stage, what was proposed? How did the</p> <p>17 parties propose to calculate the interest rate during the</p> <p>18 construction phase?</p> <p>19 A So just reading the document here in front of us, it</p> <p>20 was meant to be at a variable interest rate referencing Wall</p> <p>21 Street Journal prime rate, which -- and then plus a risk</p> <p>22 factor or a variance of 1.1 percent.</p> <p>23 Q And so what is the number in parentheses next to it?</p> <p>24 A That would have been -- so prime at that time would</p> <p>25 have been 3.25 percent. So 3.25 plus 1.15 equals 4.35.</p>
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<p>1 For instance, as a bank, if a customer is not going to</p> <p>2 be okay with 25 percent down, I don't want to go through the</p> <p>3 process of underwriting them completely and losing two weeks</p> <p>4 of my life to then have it fall through. And likewise on</p> <p>5 the customer, they don't want to waste time because time is</p> <p>6 of the essence. So it's a way, in a nonbinding way, to get</p> <p>7 banks and customers on the same page for terms and</p> <p>8 conditions.</p> <p>9 Q Thank you. So would it be fair to say that it</p> <p>10 represents an understanding? I know you said nonbinding,</p> <p>11 but it represents an understanding of kind of what the</p> <p>12 general terms of the transaction will be in formal loan</p> <p>13 documentation later.</p> <p>14 A Yep. So a term sheet like this would be replaced by</p> <p>15 loan documentation. And this is just a snapshot in time.</p> <p>16 So these details would have been a snapshot in time as of</p> <p>17 that time. And so things morph over time. Nothing's ever</p> <p>18 perfect. Conditions change. Does that answer your</p> <p>19 question?</p> <p>20 Q Thank you. It does. So as of January 26, 2021, what</p> <p>21 was the contemplated interest rate? Well, let me ask a</p> <p>22 different question first. I'm sorry. As of January 26,</p> <p>23 2021, what did the parties mean or what does -- what was</p> <p>24 intended by construction phase versus permanent phase in</p> <p>25 this document?</p>	<p>1 Q So 4.35 was just the variable rate at that snapshot</p> <p>2 moment in time?</p> <p>3 A Yeah, for illustration purposes. It was put on there</p> <p>4 for illustration purposes.</p> <p>5 Q Okay.</p> <p>6 A So it's variable. So it could change any day.</p> <p>7 Q And is the construction phase temporary or is this</p> <p>8 meant to be replaced by the financing described in the</p> <p>9 permanent phase section of the document?</p> <p>10 A Ideally, all construction should be finished, so it is</p> <p>11 meant to be replaced out. And it's meant to not be in an</p> <p>12 extended time period. It's meant to be limited to like</p> <p>13 here, a draw period of 12 months with an interest-only</p> <p>14 period of 18 months.</p> <p>15 So it would have been a term of 18 months, as an</p> <p>16 example, but it would have only been -- the loan had only</p> <p>17 been advanceable for 12 months, so there would have been a</p> <p>18 six-month time period. The construction theoretically</p> <p>19 should have been done, you know, in that 12 months if the</p> <p>20 construction was done at the same time as the advances.</p> <p>21 Q Okay. So the construction phase with this variable</p> <p>22 rate of interest, which happened to be 4.35 percent, was</p> <p>23 meant to last 18 months. That's the interest-only period?</p> <p>24 A That was the interest-only period, correct, on the term</p> <p>25 sheet.</p>

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<p>1 Q And then it would be replaced by the permanent phase?</p> <p>2 A Correct.</p> <p>3 Q And what did the parties contemplate when they decided</p> <p>4 how they would calculate the rate of interest for the</p> <p>5 permanent phase of the loan?</p> <p>6 MR. VERSTANDIG: Objection, calls for speculation</p> <p>7 based on the word parties. To the extent the question is</p> <p>8 what the bank contemplated, there's no objection. But to</p> <p>9 the extent it seeks speculation as to what the debtor</p> <p>10 contemplated, it is unduly speculative.</p> <p>11 THE COURT: Sustained.</p> <p>12 MS. TANABE: I'd be happy to rephrase it.</p> <p>13 BY MS. TANABE:</p> <p>14 Q So, based on what's written in this proposal, if I can</p> <p>15 call it that, or the term sheet, what did the bank offer as</p> <p>16 the interest rate for the permanent phase, the financing</p> <p>17 that would replace the temporary construction phase? How</p> <p>18 did it offer to calculate the rate of interest during that</p> <p>19 time period?</p> <p>20 A So it's written off of Wall Street Journal. So it</p> <p>21 would be off of prime with the same variance factor of 1.1</p> <p>22 percent at the time of funding. So it would have been 18 --</p> <p>23 theoretically, it would have been 18 months after the</p> <p>24 construction note would have been initiated, fixed for a 10-</p> <p>25 year interval.</p>	<p>1 we go.</p> <p>2 BY MS. TANABE:</p> <p>3 Q So we got to what the -- in the permanent phase, we</p> <p>4 talked about the interest rate. What was the -- how did the</p> <p>5 parties propose to amortize this note on a long-term basis?</p> <p>6 A It was to be amortized over 20 years.</p> <p>7 Q And what was the anticipated term of the permanent</p> <p>8 loan?</p> <p>9 A Ten years.</p> <p>10 Q And what did the bank indicate would be acceptable to</p> <p>11 it in terms of loan-to-value ratio for this financing?</p> <p>12 A Are you referencing the conditions below for the loan-</p> <p>13 to-value?</p> <p>14 Q In the term sheet, does it specify what loan-to-value</p> <p>15 ratio would be acceptable to the bank?</p> <p>16 A Yes, it does. And it's not quite as clear as what the</p> <p>17 document says. So, I mean, I can go -- if you can indulge</p> <p>18 me, I can draw it out for you.</p> <p>19 Q My next question was going to be what does that</p> <p>20 sentence mean? There's a sentence. I'll rephrase the</p> <p>21 question. The term sheet indicates that the loan-to-value</p> <p>22 ratio is not to exceed 90 percent of construction cost or</p> <p>23 appraisal less TIF, whichever is lower. What does that</p> <p>24 sentence mean to you?</p> <p>25 A So there's two different factors and it's the lesser of</p>
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<p>1 Q And do you happen to know what the prime rate was at</p> <p>2 that point in time? And I can be more clear.</p> <p>3 A Yeah -- what -- so it was March 11th of '22, and it'd</p> <p>4 be 18 months after that. So that'd be 9 of '23. I believe</p> <p>5 rates had gone up, Wall Street Journal had gone up. I don't</p> <p>6 know offhand.</p> <p>7 Q That's fine. Just one moment.</p> <p>8 THE COURT: I don't want you to read the rate from</p> <p>9 a research query that you are -- if that's what you're</p> <p>10 intending to do, you can move with that documentation later</p> <p>11 --</p> <p>12 MS. TANABE: No. I'm looking at my notes.</p> <p>13 THE COURT: -- if you want to take judicial</p> <p>14 notice.</p> <p>15 MS. TANABE: Yes. We could ask you -- yeah, we</p> <p>16 could ask you to take judicial notice of the interest rate</p> <p>17 at the time.</p> <p>18 THE COURT: But I'm not going to do it based on a</p> <p>19 computer inquiry that you're doing right in the middle of</p> <p>20 the witness examination. You can provide me the</p> <p>21 documentation later if you'd like.</p> <p>22 MS. TANABE: Yes, I'm actually just thinking. I</p> <p>23 lost my track of my point in my notes.</p> <p>24 THE COURT: Okay.</p> <p>25 MS. TANABE: So this is my thinking face. So here</p>	<p>1 the two. So the loan-to-value is not to exceed 90 percent</p> <p>2 of the construction. So that's one analysis. Or the</p> <p>3 appraisal less the TIF because the TIF value's been</p> <p>4 assigned. So you determine those two factors. However,</p> <p>5 there is a reference to the REDI program above which brings</p> <p>6 in another factor.</p> <p>7 Q So the phrase less the TIF has a meaning to you?</p> <p>8 A Yes.</p> <p>9 Q And does it mean that the TIF is no longer part of the</p> <p>10 building? Or what does it mean to you?</p> <p>11 A Less the TIF because the TIF doesn't add value to the</p> <p>12 property. It's not an asset to the property. The property</p> <p>13 doesn't own those revenues anymore. They've been assigned.</p> <p>14 Q And who have they been assigned to?</p> <p>15 A The WDC. And then the WDC is assigned a chunk.</p> <p>16 Q So when you look at the appraised value of the</p> <p>17 building, you're saying the appraised value cannot include</p> <p>18 the TIF, for purposes of --</p> <p>19 A Correct. It would be improper to include the TIF.</p> <p>20 Q Okay, and is an LTV, a loan-to-value ratio of 90</p> <p>21 percent higher than customary or is that customary? Or is</p> <p>22 it lower than customary?</p> <p>23 A And that's what I meant --</p> <p>24 Q For this type of project.</p> <p>25 A Pardon me. That's what I meant where it's not quite</p>

<p style="text-align: right;">Page 42</p> <p>1 clear. It's not clear on the paper when you're looking at  2 this unless you understand what the REDI program is because  3 the South Dakota REDI program requires a cash injection of  4 10 percent. And so you have to factor that in, in kind of a  5 waterfall and --</p> <p>6 MR. VERSTANDIG: Objection, foundation. The South  7 Dakota REDI program's a legal program that I don't believe  8 was ever utilized in connection with this project. Without  9 a foundation as to the witness's knowledge of the contours  10 of the program, this seems speculative and beyond the scope  11 of anything that has a proper foundation.</p> <p>12 MS. TANABE: May I respond?</p> <p>13 THE COURT: Sure.</p> <p>14 MS. TANABE: The face of this document makes  15 reference to the South Dakota REDI program, number one.  16 Number two, I'm asking the witness to explain a sentence in  17 the document that seems to have some banking-type meanings  18 that are maybe not obvious to the rest of us. So I'm just  19 asking her to explain her recollection about what the bank  20 might have meant when it wrote this document.</p> <p>21 MR. VERSTANDIG: To be clear, the objection wasn't  22 to the question. It was to the scope of the answer. Asking  23 what the bank intended by something is one thing. Having  24 the witness delve into an explanation of a pretty  25 complicated legal program is another thing.</p>	<p style="text-align: right;">Page 44</p> <p>1 assists in making sure that the property doesn't have too  2 high of debt service, debt, basically. So as banks it's  3 cash flow first, collateral second, you know, because you  4 can't make your payments, you know, so that's kind of the  5 waterfall order for decisioning in a bank.</p> <p>6 Q Let me ask you just to clarify a couple terms you use  7 there for us non-bankers. When you say it's debt service  8 first, so right now we're talking about you said that the  9 purpose of the loan-to-value term was something to do with  10 risk management for the bank. What did you mean when you  11 said it's cash flow first and you said debt service first?</p> <p>12 Can you unpack that for us?</p> <p>13 A If a customer can't repay their loan debts, they can't  14 repay, there's really -- there's no discussion about other  15 things because it doesn't cash flow. So you typically try  16 to -- the banks have several risk metrics. You've got loan-  17 to-value, you have debt service coverage and you have  18 amortization. And between those two, three or between those  19 three things, you can navigate. And there's, there's  20 standard recommendations by banks and it's just industrywide  21 for how to set certain asset types up for success. And so  22 if you have to deviate from the norm on one, typically the  23 others have to compensate. And so when I say debt service,  24 the payments are the most important, but equity is a very  25 important sister to it where you can't replace it out.</p>
<p style="text-align: right;">Page 43</p> <p>1 MS. TANABE: Well --</p> <p>2 THE COURT: The objection is sustained. So you  3 can start with another question.</p> <p>4 BY MS. TANABE:</p> <p>5 Q What is a customary loan-to-value ratio for this type  6 of a project?</p> <p>7 A It's typical to require 25 percent down.</p> <p>8 Q And who would typically be the source of that 25  9 percent down? Would it be the bank or --</p> <p>10 A Equity or a business owner. Somebody that typically  11 has skin in the game with owning whatever the project is,  12 they're the ones typically providing the cash.</p> <p>13 Q And what's the purpose from a bank's perspective or  14 from your bank's perspective, what's the purpose of  15 requiring a particular loan-to-value ratio for a project  16 like this?</p> <p>17 A Equity provides a cushion for risk. As a bank, we're  18 margin managers basically. So we want -- we mitigate risk.  19 And one of the ways that we mitigate risk is by having the  20 customer have skin in the game. It allows -- there's  21 fluctuations in market, there's things that happen. And  22 equity provides that cushion for all parties involved, one  23 to provide a little wiggle room if the bank would need to  24 step in for whatever reason to assist. But it allows the  25 customer also, in addition to that risk mitigation, it also</p>	<p style="text-align: right;">Page 45</p> <p>1 Q So can I recap what you said?</p> <p>2 A They work together.</p> <p>3 Q If the loan-to-value ratio gets higher than a customary  4 amount, what happens to the debtor's ability to make debt  5 service?</p> <p>6 A It becomes much harder if they have a higher loan-to-  7 value.</p> <p>8 Q So from your perspective as a bank, does it make the  9 risk of default higher?</p> <p>10 A Yes.</p> <p>11 Q Okay, and so you just testified that a customary loan-  12 to-value ratio for this type of property is probably like 75  13 percent. Why does this term sheet say 90 percent?</p> <p>14 A It says 90 percent because of the REDI program. The  15 REDI program would allow the bank to reduce -- it would have  16 reduced the loan-to-value inherently because of the economic  17 development program.</p> <p>18 Q So what does -- I'm going to just direct your attention  19 to the part of the agreement that says permanent phase loan  20 amount. What does the information in the parentheses there,  21 what does 50 percent participated to SD-REDI program mean?  22 Or what do you recall that would have meant?</p> <p>23 A Yep. So the REDI program still is a program that's  24 available. It's a great program, and Bank of North Dakota  25 has something. They all have something similar, North</p>

<p style="text-align: right;">Page 46</p> <p>1 Dakota and South Dakota. But the intent is to provide loan 2 terms on -- they match. So if the project costs \$10.6 3 million, REDI would require 10 percent cash. So you'd have 4 to have --</p> <p>5 MR. VERSTANDIG: Objection. Your Honor, it's 6 going to be the same objection. There isn't a foundation 7 for knowledge of the REDI program. The question was what's 8 in parens. That's fine. But explaining a program created 9 under local law from someone who's not an attorney and who 10 doesn't have a foundational experience dealing with the 11 program and the intricacies thereof is beyond the permissive 12 scope.</p> <p>13 MS. TANABE: I'd like to respond to the 14 characterization of our witness as a person who's not 15 skilled and experienced in her field. We already explained 16 that she has a graduate degree in banking, that she's done 17 this type of lending for many years, that this is the 18 primary focus of her work. She's just testified that she 19 knows not only about the existence of this program in South 20 Dakota, but in North Dakota as well. I think it's a little 21 bit patronizing to characterize our witness as someone who's 22 not skilled in her own profession and knowledgeable about 23 the way that commercial real estate is financed in our 24 region.</p> <p>25 MR. VERSTANDIG: I'm sorry, that was absolutely</p>	<p style="text-align: right;">Page 48</p> <p>1 A Oh, I turned it off because of my calculator. Sorry. 2 The bank would not have put loan-to-value not to exceed 90 3 percent of construction unless the REDI program would have 4 been included. And the reason is because the REDI program 5 requires that cash injection which inherently reduces the 6 overall loan-to-value down to acceptable loan-to-value 7 limits. So I hand calculated it would have brought us down 8 to 66 percent.</p> <p>9 Q Loan-to-value ratio? And when you say 66, you mean 66 10 percent loan-to-value ratio if South Dakota REDI program had 11 been used?</p> <p>12 A Yep, and I can just follow my math. You know, It'd be 13 the 10.6 construction cost minus the million cash gets you 14 to \$9.5 million, less the TIF because that's -- that would 15 have been -- and then that gets you to \$7.3 million amount 16 that would then been split 50/50 between Red River and REDI. 17 So the loan at Red River would have been 3.6 percent. No, 18 sorry. The loan at Red Eiver would have been \$3.6 million. 19 And REDI would have had the same and would have been a 20 shared first. So if you add this, if you take the 7.3 21 divided by the appraised amount of \$11,140,000, that gets 22 you to that 66 percent loan-to-value, so.</p> <p>23 Q And was the South Dakota REDI program used in this, for 24 this loan or for this project?</p> <p>25 A No, it wasn't.</p>
<p style="text-align: right;">Page 47</p> <p>1 not the objection and that's a grotesque 2 mischaracterization. The comment was she isn't skilled and 3 experienced in the REDI program. I'm not questioning her 4 skill and experience as a banker (indiscernible) --</p> <p>5 MS. TANABE: And at that point you're testifying 6 (indiscernible) --</p> <p>7 THE COURT: Okay. Whoa, whoa, whoa. Okay. 8 Here's the thing. The way that the testimony came out, it's 9 an explanation of the program. So the objection is 10 sustained. But the witness can testify how the REDI program 11 might affect her decision-making and how it would affect her 12 decision-making as a banker. So it's just the way that the 13 testimony came out that's objectionable. At the heart is 14 how does it affect the decision-making of a banker. She has 15 expertise in that. So I'm going to allow another question 16 and then we'll move from there.</p> <p>17 MS. TANABE: Thank you, Your Honor.</p> <p>18 BY MS. TANABE:</p> <p>19 Q Danielle, did you rely on the debtor obtaining 50 20 percent of the \$7 million that would be loaned by -- so the 21 term sheet indicates that a total of \$7.2 million would be 22 loaned to The Ruins project. Did you intend for 50 percent 23 of that loan to be provided, the loan money would be 24 provided by the South Dakota REDI program? Is that what the 25 language in the parens means?</p>	<p style="text-align: right;">Page 49</p> <p>1 Q And so not using the South Dakota REDI program, would 2 that be a material change in risk from your perspective as a 3 banker?</p> <p>4 A Yes, it would have been.</p> <p>5 Q Okay. Were you present when Charles Aarestad testified 6 on November 3, 2025, in this proceeding?</p> <p>7 A Yes, I was.</p> <p>8 Q Do you recall that Charles originally testified that 9 the total cost of The Ruins project was estimated to be 10 \$10,691,893?</p> <p>11 A Yes, I was.</p> <p>12 Q Do you agree with that number?</p> <p>13 A I do.</p> <p>14 Q That's your recollection about what the project was 15 supposed to cost?</p> <p>16 A From the documents that I reviewed from the beginning 17 of the process, and granted it's been difficult because 18 there has been lots of customer-provided arts and crafts, so 19 determining what's real and what's not from a banker's 20 perspective is very difficult.</p> <p>21 Q And so originally --</p> <p>22 MR. VERSTANDIG: Objection to arts and crafts.</p> <p>23 THE COURT: Sorry?</p> <p>24 MR. VERSTANDIG: I said I think I object to the 25 characterization of arts and crafts. But noted for the</p>

<p style="text-align: right;">Page 50</p> <p>1 record.</p> <p>2 MS. TANABE: I can ask a different question.</p> <p>3 THE COURT: Right, except for she's already</p> <p>4 testified arts and crafts. So I would like an explanation</p> <p>5 of what that is.</p> <p>6 But I'm going to allow you to ask a question, Ms.</p> <p>7 Tanabe.</p> <p>8 MS. TANABE: Thank you.</p> <p>9 BY MS. TANABE:</p> <p>10 Q You just used the phrase arts and crafts. You said</p> <p>11 there's been arts and crafts in this matter. What did you</p> <p>12 mean by that?</p> <p>13 A Typically when I look at a loan file, banking is an</p> <p>14 integrity-based system. Typically there's one version of</p> <p>15 things in the file and when comparing the documentation</p> <p>16 provided by the customer compared to the subpoenaed</p> <p>17 documents, they don't match. And it's difficult to</p> <p>18 ascertain what was reality when there's varying versions of</p> <p>19 reality from the subpoenas was provided from the customer.</p> <p>20 So that's what I mean by that.</p> <p>21 Q And when you say the documents don't match, what do you</p> <p>22 mean about the customer-provided documents? Are you saying</p> <p>23 that the customer-provided documents are different than the</p> <p>24 subpoenaed documents from banks and other financial</p> <p>25 institutions?</p>	<p style="text-align: right;">Page 52</p> <p>1 Q And originally, how much did Red River propose that it</p> <p>2 would loan to the debtor to construct The Ruins project?</p> <p>3 A \$7.2 million.</p> <p>4 Q And when the permanent financing went into place, if</p> <p>5 the South Dakota REDI program had been used, how much would</p> <p>6 Red River effectively have loaned to the debtor?</p> <p>7 A Say that one more time.</p> <p>8 Q If the South Dakota REDI program had been used in the</p> <p>9 permanent phase, how much would Red River have loaned to the</p> <p>10 debtor in the permanent phase --</p> <p>11 A 3.67 --</p> <p>12 Q Say that again.</p> <p>13 A \$3,670,000. I'm rounding.</p> <p>14 Q Thank you, and the bank -- you previously testified</p> <p>15 that the bank actually loaned over \$11 million; is that</p> <p>16 correct?</p> <p>17 A Correct.</p> <p>18 Q Was it \$11,090,000?</p> <p>19 A Yep, \$11,090,000.01, I think.</p> <p>20 Q So how much money did the WDC provide to the project in</p> <p>21 addition to what Red River provided?</p> <p>22 A I believe it's \$2.2 million. I'm rounding.</p> <p>23 Q So if the bank was originally supposed to loan \$7.2</p> <p>24 million and WDC loaned \$2.2 million, how much would the</p> <p>25 debtor have had to build the building?</p>
<p style="text-align: right;">Page 51</p> <p>1 A The customer -- for instance, when trying to come up</p> <p>2 with a value for the property, when the floor plan changes,</p> <p>3 the property value changes. So when I'm looking at an</p> <p>4 appraisal from 2021 or 2022, and it has the wrong square</p> <p>5 footage because the customer provided the wrong square</p> <p>6 footage, the appraiser can't get the number right. So there</p> <p>7 are certain benchmark numbers that as a banker we use that</p> <p>8 are very foundational, that go into other decision-making.</p> <p>9 And when the information that we're provided is not correct,</p> <p>10 it makes my job very hard for what is reality, if that</p> <p>11 explains it.</p> <p>12 MS. TANABE: Your Honor, Would you like me to ask</p> <p>13 any other clarifying questions?</p> <p>14 THE COURT: No, no, because there was an</p> <p>15 objection. Thank you.</p> <p>16 MS. TANABE: Okay. Thank you.</p> <p>17 BY MS. TANABE:</p> <p>18 Q I think we had just established what the proposed cost</p> <p>19 of the building was and what Red River had proposed it would</p> <p>20 loan. So I'm just trying to pick up now. All right. So</p> <p>21 Charles testified that the original cost of the project was</p> <p>22 \$10,691,893, correct?</p> <p>23 A Correct.</p> <p>24 Q And you agree?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 53</p> <p>1 A Between the bank and WDC, they would have had \$9.4</p> <p>2 million.</p> <p>3 Q So that's not enough to build the original projected</p> <p>4 cost of the building, correct?</p> <p>5 A No.</p> <p>6 Q So why didn't the bank agree to just loan as much money</p> <p>7 was needed to build the building or finish the building?</p> <p>8 A As we previously talked, equity typically comes in, so</p> <p>9 a down payment.</p> <p>10 Q And did that happen in this case?</p> <p>11 A No, it didn't.</p> <p>12 Q Okay. Did the bank make loans for similar projects</p> <p>13 during the same period of time as The Ruins?</p> <p>14 A Parkside and Generations in Watertown, South Dakota.</p> <p>15 Q Did you have other multifamily commercial construction</p> <p>16 in that same time period?</p> <p>17 A As?</p> <p>18 Q Did you have -- I'm sorry, I'll rephrase the question.</p> <p>19 I think my question was inartful. Did the bank make other</p> <p>20 commercial real estate loans and construction loans during</p> <p>21 the same time period as The Ruins notes?</p> <p>22 A Specifically to?</p> <p>23 Q Commercial real estate.</p> <p>24 A Across the bank or -- yes.</p> <p>25 Q Just other loans.</p>



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<p>1 A Oh, yeah. All the time.</p> <p>2 Q To other customers. And did you see other -- is this</p> <p>3 atypical or typical for your customers during this time</p> <p>4 period? The Ruins loan performance?</p> <p>5 A Which people -- related --</p> <p>6 Q I'll rephrase the question.</p> <p>7 A Yeah.</p> <p>8 Q Did you have other commercial real estate loans with</p> <p>9 similar problems in terms of costing more, not being</p> <p>10 finished, the things you've testified about for The Ruins</p> <p>11 projects? Were other projects having the same problems, the</p> <p>12 same extent, during the same period?</p> <p>13 A There was a -- that's difficult because every situation</p> <p>14 is a little bit different and unique. Every loan done is a</p> <p>15 little bit unique. I'm biased a little bit because I get</p> <p>16 involved in problem solving. So, you know, I hear -- I get</p> <p>17 involved in the worst ones. All the ones that go smoothly I</p> <p>18 don't hear about because I don't have to provide coaching</p> <p>19 and guidance. So I'm a little bit biased on answering that.</p> <p>20 Most -- I mean, there was pain and this would have been</p> <p>21 -- there's been pain recently related to inflation and</p> <p>22 depending on the customer and their expertise with dealing</p> <p>23 with that volatility, in the last five years of my banking</p> <p>24 career, we've had more -- we've had an uptick in customers</p> <p>25 having a little bit of -- we call it stress. It's not</p>	<p>1 general, that's very unusual. Outside of death, divorce,</p> <p>2 things that are just totally like, you know, when your wife</p> <p>3 gets cancer, you know, you have \$100,000 in, you know,</p> <p>4 unknown expenses, you can't budget for that. You know,</p> <p>5 those are the types of things where customers would come to</p> <p>6 us. Things that are manageable and in their control, those</p> <p>7 customers, they go to their equity, their own cash, and they</p> <p>8 typically solve the problem themselves. And the bank</p> <p>9 doesn't even get involved.</p> <p>10 MS. TANABE: Thank you. And I'm just being</p> <p>11 mindful of time. I think the court had said we need a</p> <p>12 recess in 10 minutes from now; is that correct?</p> <p>13 THE COURT: Oh, thank you for watching, because I</p> <p>14 sure wasn't. Yeah. So we can go another five minutes, but</p> <p>15 if you're at a point where you think it'd be helpful to</p> <p>16 stop, it's up to you. I'll defer.</p> <p>17 MS. TANABE: I think I only have one more</p> <p>18 question. And then it would be a natural breaking point.</p> <p>19 THE COURT: Great. Perfect.</p> <p>20 BY MS. TANABE:</p> <p>21 Q So you had previously mentioned that when there are</p> <p>22 shortfalls that or when the loans are not sufficient to</p> <p>23 build, it's not 100 percent of the cost of construction,</p> <p>24 that equity or owners would tend to contribute money to the</p> <p>25 project. And now you've testified that you kept loaning,</p>
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<p>1 stress, stress in meaning like it's fixable, but it's</p> <p>2 stress, so you've just got to kind of modify and adjust.</p> <p>3 The Ruins situation is in a league of its own. I've</p> <p>4 never seen anything like this ever. So they're not</p> <p>5 comparable at all. But there is -- I mean, the reality is,</p> <p>6 I mean, there has been inflation, there has been time frames</p> <p>7 as pipelines for different products and services. Things</p> <p>8 aren't back to normal quite yet, if that makes any sense.</p> <p>9 Q Thank you. And with the benefit of hindsight, why do</p> <p>10 you think the bank loaned so much more than what was in the</p> <p>11 original proposal?</p> <p>12 A The customer kept coming back saying he needed more</p> <p>13 money.</p> <p>14 Q And did you have the same experience with other</p> <p>15 customers during that time period?</p> <p>16 A Not to that extent, no. It's very rare. And maybe</p> <p>17 this is just a Midwest pride thing because it's where our</p> <p>18 customer base is. People don't like admitting that they --</p> <p>19 they don't like asking for help. So when you sit down and</p> <p>20 create a budget and get down to the nitty-gritty on</p> <p>21 establishing, you know, the parameters for a successful</p> <p>22 product, project, loan, customers don't like coming to us</p> <p>23 saying, I need more money. So they typically dip in their</p> <p>24 own pockets for equity cash. So it's unusual for the</p> <p>25 customer to come back to us to ask for more money. As a</p>	<p>1 that additional loans were made even when it went beyond</p> <p>2 what the bank had originally proposed it would do. Did you</p> <p>3 ever just ask Mr. Craig to use his own cash or make a</p> <p>4 capital contribution to The Ruins to finish the building,</p> <p>5 instead of the bank making additional loans to finish the</p> <p>6 building? What do you recall about that?</p> <p>7 A Yeah, so there was. I did. So after the second Ruins</p> <p>8 note, but before the third Ruins note, Jesse Craig had came</p> <p>9 to Red River asking for another \$1.5 million to finish the</p> <p>10 project. And going off my experience, it's highly</p> <p>11 irregular. The whole situation, it wasn't sitting well in</p> <p>12 my gut at that time.</p> <p>13 I had referenced a personal financial statement</p> <p>14 submitted in December of 2022, and it showed that he had \$2</p> <p>15 million in cash. And so that seems reasonable for what I</p> <p>16 knew about -- what I then knew about the customer. And so</p> <p>17 customer comes in saying, I'm short again. So we had done a</p> <p>18 loan for \$7.75 million for the first Ruins note. He came in</p> <p>19 a time period after that and said, you know, I need \$2.75</p> <p>20 million more. And then he came back the third time for</p> <p>21 another 1.5. That's what he was asking. And knowing the</p> <p>22 cash on hand and the request, it didn't make sense.</p> <p>23 So customers don't come to banks when they have cash</p> <p>24 because in this situation, it would have been appropriate</p> <p>25 for the customer to use their equity into the project. So I</p>



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<p>1 had asked Jesse Craig in my office that, well, I don't</p> <p>2 understand why you need this. Your personal financial</p> <p>3 statement from like a month or two prior says you have \$2</p> <p>4 million in cash. You should be utilizing your cash to</p> <p>5 finish the property. That would be -- and he got -- and it</p> <p>6 stands out in my mind because there's -- we're a bank.</p> <p>7 Things are very quiet, very calm. Things, you know, are</p> <p>8 very controlled. We've got processes for everything.</p> <p>9 And he got upset, raised his voice and said, you will</p> <p>10 be hearing from my attorney. And it was like a light switch</p> <p>11 flipped. And so I'm just asking, why aren't you using your</p> <p>12 cash? Because that would be appropriate. And he got angry</p> <p>13 with me. And so then I had to calm the customer down.</p> <p>14 Like, I don't understand why. Can you just explain why?</p> <p>15 Because it's not making sense. And I had to double down a</p> <p>16 couple times on that. And he finally calmed down.</p> <p>17 But I remember thinking at the time, highly unusual.</p> <p>18 When a customer is applying for a loan, they don't typically</p> <p>19 threaten to sue you just because you're asking why you're</p> <p>20 not putting your own equity into something. It is very</p> <p>21 irregular. I've never had a customer do that, ever. I've</p> <p>22 had customers get upset because, you know, their money, you</p> <p>23 know, their debit card's not working, you know, that kind of</p> <p>24 stuff. And I've just never had a situation quite like this.</p> <p>25 And it really stood out in my mind. So we did ask if he</p>	<p>1 recall ever telling The Ruins or anyone at the bank</p> <p>2 authorizing The Ruins to use loan proceeds for anything</p> <p>3 other than The Ruins project?</p> <p>4 A No.</p> <p>5 Q And has the bank made other business loans to Mr.</p> <p>6 Craig?</p> <p>7 A Parkside and Generations were two properties that we</p> <p>8 financed also.</p> <p>9 Q And have you ever made loans to Mr. Craig that were</p> <p>10 specifically for his personal use?</p> <p>11 A We did a \$2 million loan on his lake home. Red River</p> <p>12 State Bank did.</p> <p>13 Q And to your knowledge, does The Ruins own any portion</p> <p>14 of that lake home?</p> <p>15 A No, they are completely independent of each other, not</p> <p>16 connected.</p> <p>17 Q And who currently owns that lake home that you just</p> <p>18 referred to?</p> <p>19 A I believe the property ownership is in Jesse Craig's</p> <p>20 name.</p> <p>21 Q So to the best of your recollection or based on your</p> <p>22 knowledge of the bank's typical operations or this loan</p> <p>23 specifically, if the bank has ever made loans to Mr. Craig</p> <p>24 for a purpose other than The Ruins project, would those have</p> <p>25 been documented in separate loan agreements?</p>
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<p>1 would put money into it.</p> <p>2 MS. TANABE: Thank you. I think that's the</p> <p>3 promised five minutes, Your Honor.</p> <p>4 THE COURT: Great. Right on the money. Okay. So</p> <p>5 let's take a short recess while I handle another matter.</p> <p>6 And I'm guessing we'll resume -- maybe be prepared to resume</p> <p>7 around 10:20-ish. So okay, so this particular matter stands</p> <p>8 in recess. And I'll be back.</p> <p>9 (Off the record.)</p> <p>10 THE COURT: All right. We're back on the record</p> <p>11 with Bankruptcy Case Number 24-30004.</p> <p>12 And when we broke -- well, I'm not really sure if</p> <p>13 you're done with direct examination. So Ms. Tanabe, you may</p> <p>14 proceed.</p> <p>15 MS. TANABE: I apologize. I meant that we were at</p> <p>16 a natural break between topics as opposed to a break between</p> <p>17 witnesses. So --</p> <p>18 THE COURT: Okay.</p> <p>19 MS. TANABE: Thank you.</p> <p>20 BY MS. TANABE:</p> <p>21 Q All right. Danielle, I'd like to ask you some more</p> <p>22 questions about other terms of The Ruins loans. We've</p> <p>23 talked a lot about payment terms and risk management terms,</p> <p>24 financial terms. But I want to ask you about some</p> <p>25 nonpayment-related terms. So to your knowledge, do you</p>	<p>1 A Say the question one more time. It got kind of long.</p> <p>2 I want to make sure I completely understood.</p> <p>3 Q So if the bank made loans to Mr. Craig for other</p> <p>4 purposes, not The Ruins, would those loans have been</p> <p>5 documented in different or separate loan agreements than</p> <p>6 The Ruins loan agreements?</p> <p>7 A Yes. Each loan would show where the money's going, the</p> <p>8 disbursement, everything would be documented within the silo</p> <p>9 of each loan. Does that answer your question?</p> <p>10 Q It does.</p> <p>11 MS. TANABE: Sharon, can we please pull up Docket</p> <p>12 Number 86 and go to Exhibit A? I just want to pull up a</p> <p>13 Ruins note and use it as an example. Thank you.</p> <p>14 BY MS. TANABE:</p> <p>15 Q If we scroll down a little bit, will there be a</p> <p>16 purposes section in each loan? Danielle, is that standard</p> <p>17 in Red River loan agreements?</p> <p>18 A Yes, but typically it's not in the promissory note.</p> <p>19 They would be on like the disbursement. The first word is</p> <p>20 disbursement, so disbursement summary and request, I think</p> <p>21 is maybe what the document name is.</p> <p>22 Q Okay. Let's use this exhibit for something different</p> <p>23 then. If we scroll back up to the top of this document, so</p> <p>24 you had just testified that if a loan is made to a borrower</p> <p>25 for a specific purpose, that you would have separate loan</p>

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<p>1 agreements if there were separate borrowers with different</p> <p>2 purposes. What do you recall about why this loan agreement</p> <p>3 or this note rather has so many borrowers on it then?</p> <p>4 A So all the borrowers that are attached to this note are</p> <p>5 closely held entities by Jesse Craig. And the context of</p> <p>6 this time period of this loan was done after that situation</p> <p>7 in my office. So we would have attached borrowers, these</p> <p>8 borrowers from a risk mitigation standpoint.</p> <p>9 Q So you're referring to before the recess, you testified</p> <p>10 that you had growing concerned or that there was something</p> <p>11 irregular about the loan and that you had asked Mr. Craig to</p> <p>12 put in his own money into the project. Was that a factor in</p> <p>13 why he is listed as a borrower on this note?</p> <p>14 A That would be, yes.</p> <p>15 Q And is it typical to have this many borrowers on a</p> <p>16 note?</p> <p>17 A No, it is not typical. It's not typical because the</p> <p>18 context of which we were -- the context of which this loan</p> <p>19 request was -- the situation surrounding and the context, it</p> <p>20 was very unusual with the borrower coming back multiple</p> <p>21 times for money, having the altercation, if you can call it</p> <p>22 that. So this was a way to control risk.</p> <p>23 Q So what purpose would it have served to put so many</p> <p>24 entities on the third note if you didn't do it on the first</p> <p>25 and second Ruins notes?</p>	<p>1 saying to control kind of like the money flow, essentially,</p> <p>2 like it just -- it's a way to control, you know, the risk.</p> <p>3 I don't know if that better explains it. It's the context.</p> <p>4 It makes sense. Looking back at what I knew happened at the</p> <p>5 time for why we decisioned that, things weren't making</p> <p>6 sense, but we couldn't see why. I don't know. I'm not</p> <p>7 answering the question. I'm sorry.</p> <p>8 Q That's fine. That's helpful. I want to go back to --</p> <p>9 I'm going to kind of go backward and see if that's helpful.</p> <p>10 MS. TANABE: Sharon, is it possible to go to</p> <p>11 Exhibit B?</p> <p>12 BY MS. TANABE:</p> <p>13 Q Do you recognize this document?</p> <p>14 A Yep. This is the disbursement request and</p> <p>15 authorization form.</p> <p>16 Q And which loan would this have been for?</p> <p>17 A That would have been for the third Ruins note for</p> <p>18 \$600,000 in February of 2023.</p> <p>19 Q And is there anything in this document that confirms</p> <p>20 for you or your customer what the purpose of the loan</p> <p>21 proceed is for?</p> <p>22 A Yep. So this document --</p> <p>23 Q The loan disbursement. Sorry.</p> <p>24 A Yep, and so the middle part of the document, so the</p> <p>25 primary purpose of the loan is for business purposes, and so</p>
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<p>1 A Can you rephrase that?</p> <p>2 Q So what purpose -- from your perspective as a banker,</p> <p>3 what was the benefit to the bank of putting so many</p> <p>4 borrowers on the third Ruins note?</p> <p>5 A What was the benefit?</p> <p>6 Q If you can't recall, that's fine. We can move on.</p> <p>7 A I just don't know how to put it into words.</p> <p>8 Q You've testified a lot about your role at the bank</p> <p>9 being one of risk management or specifically working on loan</p> <p>10 files. I think you used the word sideways. Loans that are</p> <p>11 moving sideways or projects that are moving sideways. Is</p> <p>12 that a factor in why you put multiple borrowers on this</p> <p>13 note, made them principal obligors of this note?</p> <p>14 A This is just from my memory from two and a half years</p> <p>15 ago, over two and a half years ago. In lending, your gut is</p> <p>16 highly accurate. But when you -- so as a banker, we're</p> <p>17 supposed to review documentation and be accurate. And we</p> <p>18 assume that the documentation that we're looking at, there's</p> <p>19 integrity built in the system. We assume that what we</p> <p>20 receive is correct within a reasonable degree. My gut was</p> <p>21 saying at the time something feels off, but based on the</p> <p>22 documentation that we had in the file at the time, you know,</p> <p>23 the reasonable side of your brain saying it's fine, you</p> <p>24 know, based on documentation, but your gut's saying</p> <p>25 something different. So this was a way, in another way of</p>	<p>1 the borrowers, so all the entities that would be above would</p> <p>2 be attesting to this document and would sign. So if you</p> <p>3 scroll down, you'll see the signatures. But in the middle</p> <p>4 it says -- you can scroll. Sorry. So in the middle it says</p> <p>5 amount paid to borrower directly. So this is how we're</p> <p>6 disbursing \$600,000 via cashier's check payable to Craig</p> <p>7 Development LLC for payable to Ruins Project. So it's</p> <p>8 showing -- in banking, everything's about documentation. So</p> <p>9 it's showing the money flow in a very transparent way and</p> <p>10 the purpose of having all the entities attached from a risk</p> <p>11 mitigation standpoint. So all those entities would be</p> <p>12 attesting that they're going to use the funds according to</p> <p>13 what's written out there. And so if you scroll down, they</p> <p>14 would all sign.</p> <p>15 Q And is -- so if this loan was intended to be used for</p> <p>16 anything other than The Ruins project, would the form be</p> <p>17 different? This form confirms that it's not personal in</p> <p>18 nature?</p> <p>19 A The funds are supposed to be used according to what the</p> <p>20 form and the borrowers attest to. Any deviation from that</p> <p>21 is outside of what they're signing for.</p> <p>22 Q Thank you. I'm going to ask you some questions now</p> <p>23 about bank records that you've subpoenaed or you've asked</p> <p>24 your counsel to subpoena in this case. Did you instruct</p> <p>25 your counsel to subpoena documents directly from banking</p>

<p style="text-align: right;">Page 66</p> <p>1 institutions in this case for Mr. Craig and other insiders</p> <p>2 like Craig Development, Craig Properties, Craig Holdings,</p> <p>3 any of the entities listed on the third Ruins note?</p> <p>4 A Yes.</p> <p>5 Q And did I think you previously testified that FCCU,</p> <p>6 that's First Community Credit Union, had provided documents</p> <p>7 in response to your subpoena?</p> <p>8 A Yes, they did.</p> <p>9 Q And approximately how many pages did you receive,</p> <p>10 subpoenaed documents did you receive?</p> <p>11 A Pages?</p> <p>12 Q Yeah.</p> <p>13 A There was over 25,000 pages, but -- yeah, over 25,000</p> <p>14 pages. It was a lot of documentation. But there was 24</p> <p>15 files.</p> <p>16 Q What do you mean by 24 files? Is that 24 different</p> <p>17 accounts or --</p> <p>18 A Yep, 24 different -- so the bank, when they put</p> <p>19 together the subpoena request, they broke it out into 24</p> <p>20 files. And largely I reviewed the Craig Properties and the</p> <p>21 Craig Development because that's where the activity largely</p> <p>22 was.</p> <p>23 Q Okay. So you personally reviewed some of the subpoena</p> <p>24 documents or --</p> <p>25 A Yup. Hours and hours of my life.</p>	<p style="text-align: right;">Page 68</p> <p>1 MS. TANABE: In Exhibit A, can you scroll to Page</p> <p>2 2, Sharon, please?</p> <p>3 BY MS. TANABE:</p> <p>4 Q Do you recognize this summary?</p> <p>5 A Yes. It's transfers from the Red River State Bank</p> <p>6 Ruins account to the FCC or First Community Credit Union</p> <p>7 Craig accounts.</p> <p>8 Q And what does Craig accounts mean to you?</p> <p>9 A There primarily was two accounts at FCCU, or First</p> <p>10 Community Credit Union, that funds were deposited in or move</p> <p>11 to. So it's kind of a general term for Craig Properties and</p> <p>12 Craig Development.</p> <p>13 Q And so Craig Properties and Craig Development are not</p> <p>14 the same as The Ruins?</p> <p>15 A No, they're separate legal entities.</p> <p>16 Q Why would -- well, how much was transferred out of The</p> <p>17 Ruins account into the Craig accounts based on this summary?</p> <p>18 A Based on this summary, \$3,617,312.75.</p> <p>19 MS. TANABE: Okay. Sharon, would you scroll down</p> <p>20 to Exhibit B, please? We'll go to I think it's Page 28 at</p> <p>21 the top of the page in blue. It will be Exhibit B. There</p> <p>22 we go.</p> <p>23 BY MS. TANABE:</p> <p>24 Q Is that -- okay, and do you recognize this document?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 67</p> <p>1 Q And in your experience as a loan officer, is it typical</p> <p>2 for loan proceeds for a construction project to be</p> <p>3 commingled with other projects?</p> <p>4 A No.</p> <p>5 MR. VERSTANDIG: Objection to the word commingled,</p> <p>6 which calls for a legal conclusion. No objection if a</p> <p>7 synonym is used.</p> <p>8 THE COURT: I think commingle has both a legal and</p> <p>9 a layperson connotation. So I'm going to overrule.</p> <p>10 MR. VERSTANDIG: Thank you, Your Honor.</p> <p>11 THE WITNESS: It's unusual to commingle. It's</p> <p>12 irregular.</p> <p>13 BY MS. TANABE:</p> <p>14 Q So you testified that you review a lot of special</p> <p>15 assets related files. Would you think of that as a red flag</p> <p>16 in your experience?</p> <p>17 A That would be a red flag. It's against best practices</p> <p>18 for accounting. Yeah.</p> <p>19 MS. TANABE: Okay. Let's maybe go to -- Sharon,</p> <p>20 could you go to ECF Number 177-1, Exhibit A? I'm going to</p> <p>21 go through this quickly. Counsel has already stipulated to</p> <p>22 this being admitted and the court has already received it.</p> <p>23 BY MS. TANABE:</p> <p>24 Q So I'm going to ask you very limited questions about</p> <p>25 it.</p>	<p style="text-align: right;">Page 69</p> <p>1 MS. TANABE: And, Sharon, would you scroll slowly</p> <p>2 through it.</p> <p>3 BY MS. TANABE:</p> <p>4 Q Once you get your bearings, Danielle, can you tell me</p> <p>5 what this table shows?</p> <p>6 A Yep. These are transfers made to Jesse Craig that</p> <p>7 either had an ending deposit location of either Craig</p> <p>8 Development or Craig Properties.</p> <p>9 Q So this is money that would have been transferred to</p> <p>10 him individually?</p> <p>11 A Correct.</p> <p>12 Q And what's the total amount of the transfers on this</p> <p>13 chart?</p> <p>14 A The total amount between the two different accounts</p> <p>15 made to Jesse Craig was \$191,513.05.</p> <p>16 Q Thank you.</p> <p>17 MS. TANABE: And, Sharon, would you please go to</p> <p>18 Exhibit C?</p> <p>19 BY MS. TANABE:</p> <p>20 Q Do you recognize this?</p> <p>21 A Yep.</p> <p>22 Q This summary?</p> <p>23 A Yep. This is a summary table for transfers made to</p> <p>24 Mulinda Craig.</p> <p>25 Q And can you tell what is the time period of these</p>

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<p>1 transfers?</p> <p>2 A The time period? So, January 12th of '22, through</p> <p>3 April 18th of 2023.</p> <p>4 Q And what was the total amount transferred to Ms. Craig?</p> <p>5 A \$106,597.13.</p> <p>6 Q Thank you.</p> <p>7 MS. TANABE: And let's go to Exhibit D, please.</p> <p>8 Oh, there we go. Can we just scroll through this, Sharon,</p> <p>9 until Danielle indicates that she recognizes this?</p> <p>10 BY MS. TANABE:</p> <p>11 Q Danielle, do you recognize this document?</p> <p>12 A Yep. These are the transfers made to Jordan Horner.</p> <p>13 Q And who's Jordan Horner?</p> <p>14 A Jesse Craig's daughter. And I believe she works at</p> <p>15 Craig Properties.</p> <p>16 Q And what's the total dollar amount of these transfers?</p> <p>17 A \$124,663.56.</p> <p>18 Q Thank you.</p> <p>19 MS. TANABE: Sharon, could we please go to Exhibit</p> <p>20 E? There we go.</p> <p>21 BY MS. TANABE:</p> <p>22 Q And do you recognize this summary?</p> <p>23 A Yes.</p> <p>24 Q What does it show?</p> <p>25 A Transfers made to Sydney, Sydney Craig.</p>	<p>1 Parkside Place. We didn't have anything to do with it.</p> <p>2 MS. TANABE: Okay, and if you scroll down to the</p> <p>3 bottom.</p> <p>4 BY MS. TANABE:</p> <p>5 Q What's the total amount of these transfers?</p> <p>6 A \$928,947.86.</p> <p>7 Q And I missed a question. I wanted to ask if you know</p> <p>8 or do you recognize the entity 220 West LLC that appears in</p> <p>9 this table?</p> <p>10 A 220 West is a property in Fargo. It's like, maybe four</p> <p>11 or five blocks to the northwest of the courthouse. I might</p> <p>12 be off by --</p> <p>13 Q So that's a property unrelated --</p> <p>14 A Yep, it's unrelated to --</p> <p>15 Q Sorry. That's a property --</p> <p>16 A Yep, it's unrelated --</p> <p>17 Q Very good. Thank you.</p> <p>18 A Okay. So The Lofts --</p> <p>19 MS. TANABE: Okay. So can we go to --</p> <p>20 THE COURT: (Indiscernible) wait until Ms. Tanabe</p> <p>21 finishes her question before you begin your answer, and the</p> <p>22 same thing, Ms. Tanabe has to wait until you finish. The</p> <p>23 record's unclear, and there's this little gap with video</p> <p>24 conferencing. So it takes extra patience. So thank you.</p> <p>25 MS. TANABE: My apologies. At the risk of boring</p>
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<p>1 Q And who is Sydney Craig?</p> <p>2 A Another daughter of Jesse Craig.</p> <p>3 MS. TANABE: Can we scroll down to the bottom,</p> <p>4 Sharon?</p> <p>5 BY MS. TANABE:</p> <p>6 Q What was the total amount of these transfers?</p> <p>7 A \$78,840.</p> <p>8 Q Thank you.</p> <p>9 MS. TANABE: Then Sharon, could we go to Exhibit</p> <p>10 F-1? And on the next page. There we go.</p> <p>11 BY MS. TANABE:</p> <p>12 Q Danielle, do you recognize this table?</p> <p>13 A Yes.</p> <p>14 Q And what is it?</p> <p>15 A Transfers to Craig entities.</p> <p>16 Q So with this, does Craig entities here mean just</p> <p>17 projects other than The Ruins?</p> <p>18 A It would be separate legal entities that he owns.</p> <p>19 Q So, for example --</p> <p>20 A It wouldn't be part of any of the properties for</p> <p>21 construction.</p> <p>22 Q So, for example, what is The Lofts? Do you recognize</p> <p>23 that?</p> <p>24 A The Lofts was a construction or a building that he</p> <p>25 constructed in Watertown, South Dakota, that preceded</p>	<p>1 everyone, I was trying to move up a the pace a little bit.</p> <p>2 But I shall slow down now.</p> <p>3 BY MS. TANABE:</p> <p>4 Q So I had asked you if you recognized 220 West LLC. And</p> <p>5 your answer was?</p> <p>6 A It's a property unrelated to The Ruins that Jesse Craig</p> <p>7 has membership in in Fargo, North Dakota.</p> <p>8 Q Thank you.</p> <p>9 MS. TANABE: Can we go to Exhibit G? There we go.</p> <p>10 BY MS. TANABE:</p> <p>11 Q Do you recognize this table, Danielle?</p> <p>12 A Yes.</p> <p>13 Q And if we scroll through it, I want you to take time to</p> <p>14 look at the entities on the left. Okay. So who do you</p> <p>15 think these entities are? Or do you recognize what this</p> <p>16 table shows?</p> <p>17 A So these would have been contractors related to the</p> <p>18 Craig lake home. And the reason why I know that they're not</p> <p>19 related to The Ruins, one, if you look at the address lines</p> <p>20 made out to these contractors, they're in the Otter Tail</p> <p>21 County area. And these contractors also weren't listed in</p> <p>22 any of the draw requests.</p> <p>23 Q And what is the significance of the Otter Tail County</p> <p>24 area?</p> <p>25 A That's where the lake home is located.</p>

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<p>1 Q And if we scroll to the bottom, what's the total amount</p> <p>2 of these transfers?</p> <p>3 A \$556,790.91.</p> <p>4 Q Thank you.</p> <p>5 MS. TANABE: Sharon, would you go to Exhibit H,</p> <p>6 please? Thank you.</p> <p>7 BY MS. TANABE:</p> <p>8 Q And do you recognize this summary?</p> <p>9 A Yes.</p> <p>10 Q And what is the significance of the parties on the</p> <p>11 left?</p> <p>12 A The significance of the parties on the left?</p> <p>13 Q Let me rephrase that. It's kind of artful. What does</p> <p>14 this table show? Or who are the parties on the left column?</p> <p>15 A The parties on the left-hand column are either</p> <p>16 financial institutions or I see a title company in there</p> <p>17 too. So they would be financial type, industry entities.</p> <p>18 Q And based on your knowledge of The Ruins, and as your</p> <p>19 customer, are you aware of whether The Ruins had bank</p> <p>20 accounts at these banks that were related to the project?</p> <p>21 A Say that one more time.</p> <p>22 Q I think you testified before that you tend to review</p> <p>23 the files that are in default for the bank. In your review</p> <p>24 of The Ruins matter specifically, did you come across these</p> <p>25 banks? Does The Ruins own bank accounts at these banks?</p>	<p>1 It's an aircraft share. You can buy shares in an airplane,</p> <p>2 you know, to fly around like.</p> <p>3 Q So would you characterize these as non-Ruins-related</p> <p>4 expenses then?</p> <p>5 A Yes.</p> <p>6 Q And what was the total amount of these transfers?</p> <p>7 A \$1,465,668.49.</p> <p>8 Q Thank you. And so if we were to go to your</p> <p>9 declaration, which is in Exhibit 177.</p> <p>10 MS. TANABE: Scroll down to Page 6.</p> <p>11 BY MS. TANABE:</p> <p>12 Q What's the total amount of the transfers listed in</p> <p>13 Exhibits A through I that we just walked through?</p> <p>14 A \$4,365,805.33.</p> <p>15 Q And based on your review of these documents and your</p> <p>16 prior testimony about the purpose of The Ruins loan</p> <p>17 disbursements, do you think these were authorized uses of or</p> <p>18 intended uses of Ruins loans proceeds?</p> <p>19 A No.</p> <p>20 Q Thank you. All right. I'm going to move on to some</p> <p>21 slightly different topic now. You've testified that you</p> <p>22 were here when Charles Aarestad testified on the 3rd. I</p> <p>23 think he said that the last payment on any of The Ruins</p> <p>24 notes was made in November of 2023. Is that your</p> <p>25 recollection as well?</p>
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<p>1 A No. These bank names are completely independent of any</p> <p>2 of the subpoena stuff that I -- we --</p> <p>3 Q So do any of these banks have an interest in The Ruins</p> <p>4 property or mortgage?</p> <p>5 A No. No, they do not. These banks don't have any</p> <p>6 connection to The Ruins from my understanding.</p> <p>7 Q So you have no reason to believe that these are</p> <p>8 creditors of The Ruins?</p> <p>9 A No.</p> <p>10 Q And what's the total amount of the transfers in this</p> <p>11 summary?</p> <p>12 A \$912,784.33.</p> <p>13 Q Thank you.</p> <p>14 MS. TANABE: Just one more. Can we go to Exhibit</p> <p>15 I, please? Almost there, Sharon. There we go.</p> <p>16 BY MS. TANABE:</p> <p>17 Q Do you recognize this summary?</p> <p>18 A Yes.</p> <p>19 Q And what do you think this summary shows?</p> <p>20 A These are miscellaneous transfers to entities unrelated</p> <p>21 to The Ruins.</p> <p>22 Q And how do you know they're unrelated to The Ruins?</p> <p>23 A Well, they weren't any of the draw requests. And then</p> <p>24 just logically speaking, I mean, I've reviewed tax returns</p> <p>25 for Jesse Craig. I mean, Apollo Air is in his tax return.</p>	<p>1 A Correct. And I think the payment made previous to that</p> <p>2 was September of '23 on the third note.</p> <p>3 Q And before The Ruins filed for bankruptcy, how much</p> <p>4 were the regular monthly payments that were due to the bank</p> <p>5 for The Ruins notes?</p> <p>6 A So The Ruins notes would have -- can you -- that's a</p> <p>7 multiple layer --</p> <p>8 Q How much -- yeah, how much are the under just the loan</p> <p>9 documents and the promissory notes? What are the regular</p> <p>10 monthly payments for The Ruins notes?</p> <p>11 A So for the first Ruins note, there was an 18-month</p> <p>12 interest-only period. So it would have been interest only.</p> <p>13 Does that answer your question?</p> <p>14 Q It does. And what was the dollar amount that the bank</p> <p>15 should have received per month on The Ruins notes?</p> <p>16 A \$27,450 approximate for the first Ruins note, which</p> <p>17 would be the interest only.</p> <p>18 Q And for the second Ruins note?</p> <p>19 A I don't have my decimals in the right place. Sorry.</p> <p>20 \$10,541.67.</p> <p>21 Q And for the third Ruins note?</p> <p>22 A That one had a -- I don't know the payment structure</p> <p>23 off of that one offhand.</p> <p>24 Q So could you estimate in the aggregate how much late</p> <p>25 payments are for the three notes?</p>

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<p>1 A You're looking for? Just to clarify, you're looking</p> <p>2 for the total payment amount?</p> <p>3 Q Per month for all three notes if the loans were</p> <p>4 performing.</p> <p>5 A From recollection the third -- would we be able to pull</p> <p>6 up the third Ruins note by chance, the promissory note?</p> <p>7 Because then I can look at the payment stream and give you</p> <p>8 an accurate answer. Is that on --</p> <p>9 MS. TANABE: Yes. Let's go to -- Sharon, would</p> <p>10 you go to Docket Number 86? It should be Exhibit A. Let's</p> <p>11 just see if we can refresh your recollection.</p> <p>12 THE WITNESS: So what time period are we -- are we</p> <p>13 talking November of '23?</p> <p>14 BY MS. TANABE:</p> <p>15 Q Just what -- I guess assuming this note was not</p> <p>16 matured, what would be the monthly payment? How much</p> <p>17 interest would accrue?</p> <p>18 MR. VERSTANDIG: Objection. One, the document</p> <p>19 speaks for itself. Two, calls for a hypothetical</p> <p>20 conclusion. The plain terms of the document state that it's</p> <p>21 to be paid in four monthly payments of a very flat sum with</p> <p>22 a five months following thereafter, and then different sums</p> <p>23 thereafter, different dates and a balloon. Trying to</p> <p>24 project what the payment would be after the putative</p> <p>25 maturity date is outside the contours of it and calls for</p>	<p>1 off. So, you know, it'd be \$40,000 probably. And</p> <p>2 specifically because the interest accrual is \$1,353. I</p> <p>3 don't know the cents, but it's \$1,353 between all three</p> <p>4 loans, using an 11-month time period, the interest accrual</p> <p>5 since bankruptcy is \$452,691.25. So I think that's what</p> <p>6 you're ultimately asking.</p> <p>7 Q Yes. So you said \$452,691 --</p> <p>8 A And 25 cents.</p> <p>9 Q -- of accrued interest on all three notes since the</p> <p>10 petition date in this case.</p> <p>11 A Correct.</p> <p>12 Q And before the bankruptcy, what efforts did the bank</p> <p>13 take to protect its collateral from loss?</p> <p>14 A Before bankruptcy, we had started a foreclosure lawsuit</p> <p>15 in Codington County and there was an appointment of a</p> <p>16 receiver to protect the assets.</p> <p>17 Q Were you personally involved in those efforts?</p> <p>18 A Yes.</p> <p>19 Q And did you review legal invoices for the bank or other</p> <p>20 professional invoices for the bank?</p> <p>21 A Yes.</p> <p>22 Q Can you estimate how much the bank has spent prior to</p> <p>23 filing for bankruptcy on The Ruins default?</p> <p>24 A Just using round numbers, prepetition, the bank had</p> <p>25 spent around -- it was north of \$100,000 in the South Dakota</p>
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<p>1 speculation.</p> <p>2 MS. TANABE: I'm actually happy to rephrase the</p> <p>3 question.</p> <p>4 THE COURT: Okay. you would have to do that</p> <p>5 anyway, because I will sustain it. Sounds good.</p> <p>6 MS. TANABE: Yeah. It was inartful. My</p> <p>7 apologies.</p> <p>8 So just scroll up a tiny bit, Sharon, please.</p> <p>9 BY MS. TANABE:</p> <p>10 Q Or maybe you can see it, Danielle, at the top of this</p> <p>11 document. What's the date of maturity date of this note?</p> <p>12 A 12/30 of 2023.</p> <p>13 Q And so how much interest has accrued on the third Ruins</p> <p>14 note since the petition date in this case?</p> <p>15 A Just to make sure I understood -- or just rephrase the</p> <p>16 -- restate the question. I understood the question. I just</p> <p>17 want to make sure I --</p> <p>18 Q Sure. I think I'm asking since the debtor filed for</p> <p>19 bankruptcy, how much interest has accrued on the notes, The</p> <p>20 Ruins notes. And if it helps you to do them one by one, you</p> <p>21 can or you could just state the number in the aggregate, if</p> <p>22 that's easier.</p> <p>23 A Well, I'll answer two ways. Since the bankruptcy</p> <p>24 petition, roughly the third Ruins note has accrued around</p> <p>25 \$45,000. I'm just using annual because we're only one month</p>	<p>1 foreclosure. And then since bankruptcy started, it's been</p> <p>2 another 200. So roughly it's over 300 for The Ruins --</p> <p>3 Q And is the --</p> <p>4 A Sorry.</p> <p>5 Q Sorry. Continue. I apologize. On Zoom, I can't quite</p> <p>6 see your face, so I wasn't sure if you were done talking.</p> <p>7 So would you describe this as very time consuming for the</p> <p>8 bank?</p> <p>9 A Unfortunately, yes, it's very time consuming.</p> <p>10 Q And given the time you've spent on this matter, have</p> <p>11 you ever tried to analyze the risk-benefit to the bank of</p> <p>12 just loaning more money to finish the building?</p> <p>13 A Yes, but in situations like this, using my professional</p> <p>14 experience as a banker, giving more money is not going to</p> <p>15 fix the problem because it's not going to cash flow.</p> <p>16 Q And have you hired experts to visit the project and</p> <p>17 analyze the project?</p> <p>18 A Yes.</p> <p>19 Q And you've read expert reports or met with those</p> <p>20 experts.</p> <p>21 A The bank, several members of the bank, myself included.</p> <p>22 I've been on site at The Ruins. I am not a construction</p> <p>23 expert. And so we've hired construction experts to give us</p> <p>24 the knowledge that we need to make informed decisions.</p> <p>25 Q And just based on your walkthrough site visits, does</p>



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<p>1 the building look better, worse, the same than it did a year 2 ago?</p> <p>3 A Outside of the time frame piece, over time, my 4 perspective is the building has deteriorated.</p> <p>5 Q And I think we heard yesterday. Were you present when 6 Josh Luther testified?</p> <p>7 A Yes.</p> <p>8 Q And he testified that the bank hired him for four 9 reports. Do you agree with that?</p> <p>10 A Correct.</p> <p>11 Q And I think a question was asked about whether that was 12 an unusually high number of reports in a short period of 13 time for a project. Do you recall that?</p> <p>14 A Yes.</p> <p>15 Q From your recollection, why did the bank order so many 16 appraisal reports?</p> <p>17 A The customer kept asking for money. And the variables 18 kept changing, if that makes any sense. So the customer 19 comes and says, I need more money. The bank needs to 20 reassess at each time that occurs because a credit decision 21 is made each time. And so you need updated documentation 22 each time those things occur.</p> <p>23 Q And I think there was the fourth report. Josh Luther 24 testified that the property is currently worth less than it 25 was in his first report. What does the bank -- does the</p>	<p>1 that we would have had in the file. But it's -- I mean, the 2 whole situation is irregular.</p> <p>3 Q And so based on your experience and your assessment 4 about debt service, collateral value, creditworthiness, 5 however you make decisions as a bank, how confident are you 6 that giving the debtor more time and more money would cause 7 this project to be completed?</p> <p>8 A I have zero confidence that if more time or more money 9 was given that it's going to end in a positive result. And 10 that's coming from my banking experience. There's too much 11 debt on the property.</p> <p>12 Q Thank you.</p> <p>13 MS. TANABE: Sharon, could we pull up Docket 14 Number 181, please, and Docket 141 side by side. Okay, and 15 I think we need the term sheet again, which is Hyperlink 15. 16 Okay. Then can we maybe just scroll down a little bit on 17 the left? There we go.</p> <p>18 BY MS. TANABE:</p> <p>19 Q All right. Danielle, you've already confirmed that 20 you're familiar with the term sheet on the left. Can you 21 tell us whether you're familiar with the document on the 22 right?</p> <p>23 A I believe I am.</p> <p>24 Q And what is that document on the right?</p> <p>25 A I believe that's the debtor's second Chapter 11</p>
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<p>1 bank have an internal process when the value of its 2 collateral has decreased, or do you have a way of 3 determining whether the value of your collateral has 4 decreased?</p> <p>5 A We're not property valuation experts, so we rely on 6 appraisers. So when we order an appraisal, we're utilizing 7 that to make credit decisions.</p> <p>8 Q And when you reviewed those appraisals and you made 9 those credit decisions, did you determine that there was not 10 enough equity in the building to support additional lending 11 beyond the third Ruins note?</p> <p>12 MR. VERSTANDIG: Objection, leading.</p> <p>13 THE COURT: Sustained.</p> <p>14 BY MS. TANABE:</p> <p>15 Q When you reviewed those appraisals and -- how did it 16 affect your determination about the creditworthiness of The 17 Ruins?</p> <p>18 A When I reviewed the appraisals?</p> <p>19 Q Correct.</p> <p>20 A So appraisals would be used to underwrite in 21 conjunction with financials provided by the borrower. And a 22 property -- more debt does not fix -- you get to the point 23 where there's so much debt that a property doesn't cash 24 flow. So looking at appraisals over time, we would have 25 made credit decisions at the time based on the information</p>	<p>1 reorganization plan proposal.</p> <p>2 MS. TANABE: Okay, and Sharon, on the right-hand 3 side of the screen, could you go down to Page 6. And let's 4 scroll down to Class 1. All right. There we go.</p> <p>5 BY MS. TANABE:</p> <p>6 Q So I'm focusing on Page 6 on the right-hand side right 7 now where it says Class 1 disputed secured claim of Red 8 River State Bank. There's a sentence that begins with 9 whatever the allowed secure claim of RRSB may ultimately be, 10 such will be retired through the making of regular monthly 11 payments beginning on the planned commencement date based 12 on. And then there are three little romanettes there. With 13 the benefit of your banking experience and your knowledge of 14 amortization schedules and your handy-dandy calculator, can 15 you translate all of that text into just a monthly payment 16 for us?</p> <p>17 A I think if you scroll down, it has a monthly payment of 18 \$55,207.33.</p> <p>19 Q Do you agree with that number?</p> <p>20 A Yes, based on how I read that paragraph anyway.</p> <p>21 MS. TANABE: Okay, and Sharon, can we scroll up a 22 little bit?</p> <p>23 BY MS. TANABE:</p> <p>24 Q And so what amortization period does the debtor's plan 25 propose for the payment of Red River's -- the claim based on</p>



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<p>1 the three Ruins notes?</p> <p>2 A They have it based on a 30-year amortization. So</p> <p>3 that's the length of time that the payments are stretched</p> <p>4 over, principal and interest at a 4.35 interest rate.</p> <p>5 Q And I've got the term sheet on the left to refresh your</p> <p>6 recollection. Did the parties ever agree to a 30-year</p> <p>7 amortization of the debt on a long-term basis?</p> <p>8 A No.</p> <p>9 Q And what was originally contemplated at the beginning</p> <p>10 of the deal in the term sheet?</p> <p>11 A Twenty years.</p> <p>12 Q Or proposed rather? Twenty years? And did the bank</p> <p>13 ever propose to the debtor that it would provide permanent</p> <p>14 financing at a fixed rate of 4.350 percent in the term</p> <p>15 sheet?</p> <p>16 A No. As you can see in the term sheet on the left</p> <p>17 underneath permanent phase, the second line where it says</p> <p>18 rate, it says at Wall Street Journal prime, which is a</p> <p>19 variable. And then there's a variance off of that. But it</p> <p>20 would be a fixed. So the adjustable period would be 10</p> <p>21 years. But it's based on Wall Street Journal, so that's</p> <p>22 variable. It's not a fixed product.</p> <p>23 Q And what is the -- so the plan indicates on the right</p> <p>24 hand of your screen that 4.350 percent was the rate agreed</p> <p>25 upon by the parties at the time RRSB solicited the debtor's</p>	<p>1 customer. Did the bank ever offer a fixed 4.35 percent rate</p> <p>2 of interest for long-term financing?</p> <p>3 A No.</p> <p>4 Q On a 30-year amortization schedule?</p> <p>5 A No.</p> <p>6 Q Okay. Thank you. So if it took the debtor 12 months</p> <p>7 to finish construction, find renters and stabilize The</p> <p>8 Ruins, how much would the monthly plan payments -- how much</p> <p>9 -- what would be the total of the monthly plan payments due</p> <p>10 to Red River in that 12-month period? Oh, I think the plan</p> <p>11 says the --</p> <p>12 MR. VERSTANDIG: Objection, Your Honor. The</p> <p>13 document speaks for itself. And there's a specific reason</p> <p>14 for this objection, which is there's a defined phrase which</p> <p>15 is plan payment commencement date, which is not synonymous</p> <p>16 with a confirmation date or an effective date. And I think</p> <p>17 we're trying to have a lay witness read into what is</p> <p>18 admittedly a somewhat complicated, not overly complicated,</p> <p>19 legal document that's in evidence.</p> <p>20 THE COURT: Sustained. The plan speaks for</p> <p>21 itself. If the bank has different expectations, you can</p> <p>22 testify to that.</p> <p>23 MS. TANABE: Understood, I can ask a different</p> <p>24 question.</p> <p>25 BY MS. TANABE:</p>
Page 87	Page 89
<p>1 business. Are you aware of a different document in which</p> <p>2 the bank solicited The Ruins business?</p> <p>3 A Are you referring to is do I know if there's an</p> <p>4 existence of another term sheet?</p> <p>5 Q Maybe I'll just ask you the debtor's plan indicates</p> <p>6 that the parties agreed on a fixed rate of 4.35 percent at</p> <p>7 the time, at the beginning of the deal, before the building</p> <p>8 was built, before the loan was made. Do you agree with that</p> <p>9 statement that.</p> <p>10 A The bank at the 4.35 percent because prime would have</p> <p>11 been 3.25 at the time plus the 1.1, the 110 basis point</p> <p>12 variance which would get you to that 4.35.</p> <p>13 Q But that was in your memory or based on your</p> <p>14 recollection or based on your review of the term sheet, you</p> <p>15 can tell us what you think is the most reliable basis for</p> <p>16 your opinion. Do you agree with the statement that the bank</p> <p>17 agreed to a fixed rate of 4.35 percent to solicit the</p> <p>18 debtor's business?</p> <p>19 A I would look at what the promissory note says because</p> <p>20 that would be the final terms of whatever the agreement</p> <p>21 would have been for --</p> <p>22 Q I'm sorry. I'm not asking the question well. The plan</p> <p>23 says that the debtor solicited the debtor's business. So</p> <p>24 this is before the loan documentation was drawn up, just at</p> <p>25 the phase that the bank was soliciting the debtor as a</p>	<p>1 Q Has the debtor made any payments to the bank since the</p> <p>2 bankruptcy case was started?</p> <p>3 A No, not on The Ruins.</p> <p>4 Q And would interest continue to accrue on notes or is</p> <p>5 interest continuing to accrue on the notes?</p> <p>6 A Yes, interest continues to accrue. There's a cost of</p> <p>7 capital.</p> <p>8 Q And what would you estimate that cost of capital to be</p> <p>9 since the petition date in this case?</p> <p>10 A It was \$452,691.25, I believe.</p> <p>11 Q And is that the annual amount of interest that accrues?</p> <p>12 A That would be 11 months. That would be as of assuming</p> <p>13 through November.</p> <p>14 MS. TANABE: Okay. So. Let's move on to the</p> <p>15 debtor's proposed treatment of Codington County, which I</p> <p>16 think is on the right-hand side. We can scroll down a bit.</p> <p>17 BY MS. TANABE:</p> <p>18 Q Okay. How much -- based on your review of just</p> <p>19 deliverables from your customer, how much property tax do</p> <p>20 you think The Ruins will have an obligation to pay?</p> <p>21 MR. VERSTANDIG: Objection, calls for speculation.</p> <p>22 THE COURT: Sustained.</p> <p>23 BY MS. TANABE:</p> <p>24 Q In your prior review of the property tax statements for</p> <p>25 the property, how much did the debtor owe per year in</p>

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<p>1 property tax?</p> <p>2 A I believe, and this is going off memory, there's two</p> <p>3 years of property taxes owed unpaid. The first year was</p> <p>4 \$36,000 because it was 18 per installment. And then the</p> <p>5 2024, I think was roughly around \$55,000. And that should</p> <p>6 get you to the math of roughly \$91,000.</p> <p>7 Q What do you mean by the math of \$91,000?</p> <p>8 A Oh, in Class 3, it says the priority tax claim in</p> <p>9 amount of \$91,263.98.</p> <p>10 Q So that's the amount of back taxes. I'm sorry, I must</p> <p>11 have confused you by leading you to this portion of the</p> <p>12 document. Let me just rephrase the question. You said that</p> <p>13 the amount of real estate tax for The Ruins is approximately</p> <p>14 \$55,000 a year on an ongoing basis?</p> <p>15 A The real estate taxes are based on, and I am not a city</p> <p>16 expert, but they take the value of the property times a</p> <p>17 factor. And so depending on what the value of the property</p> <p>18 is, the real estate taxes theoretically could fluctuate. So</p> <p>19 if the value of the property goes up, the real estate taxes</p> <p>20 go up. But as it stands, since nothing has happened on the</p> <p>21 property for any sort of a value add, you could</p> <p>22 theoretically use 2020. You could use the last set that</p> <p>23 were due, which is roughly around \$55,000.</p> <p>24 Q Okay. I'm going to ask you to -- I'm going to have you</p> <p>25 add up some numbers for me. So based on the plan that's in</p>	<p>1 opportunity to do that.</p> <p>2 MR. HUSHKA: Your Honor, sorry to interrupt --</p> <p>3 MS. TANABE: I was going to ask her -- go ahead,</p> <p>4 Drew.</p> <p>5 MR. HUSHKA: I'm not sure if 181 is in evidence,</p> <p>6 as was attested to by Mr. VerStandig. I don't believe it at</p> <p>7 the initial hearing, at the stipulation, and I don't know if</p> <p>8 we've stipulated to it since. So to the extent that the</p> <p>9 court is relying on this being in evidence and being able to</p> <p>10 be argued it's not in evidence at this point.</p> <p>11 THE COURT: I couldn't find it on my exhibit list</p> <p>12 either. But I don't -- I am sustaining any objection to</p> <p>13 this witness testifying about that plan. So you're right.</p> <p>14 It's not in evidence.</p> <p>15 MR. HUSHKA: I just wanted to make sure my exhibit</p> <p>16 notes were accurate.</p> <p>17 THE COURT: Yes. I think they are because I</p> <p>18 couldn't find it. But Ms. Horsager, is 181 in? I don't</p> <p>19 think it is, but I'm going to make sure.</p> <p>20 MR. VERSTANDIG: I think Mr. Hushka is correct. I</p> <p>21 plan on moving it later today.</p> <p>22 THE COURT: Okay. It is not. So you are</p> <p>23 absolutely correct.</p> <p>24 MR. VERSTANDIG: So add to my objection assumes</p> <p>25 facts not in evidence.</p>
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<p>1 front of you on the right, how much would the debtor have to</p> <p>2 generate in cash flow to pay the bank, the mechanic</p> <p>3 lienholders, the back taxes to Codington County and regular</p> <p>4 taxes to Codington County under the plan?</p> <p>5 MR. VERSTANDIG: Objection. The document speaks</p> <p>6 for itself. The laws of mathematics speak for themselves.</p> <p>7 And again, we're asking a lay witness who had nothing to do</p> <p>8 with the drafting of this document to interpret the</p> <p>9 document. And to be clear, counsel can argue the document</p> <p>10 in closing. It's in evidence. There's no objection to</p> <p>11 argument being premised upon it or argument being premised</p> <p>12 about the terms thereof. But asking a lay witness to read</p> <p>13 certain provisions and to do math, it doesn't add anything</p> <p>14 from an evidentiary perspective to this hearing.</p> <p>15 THE COURT: I agree. So I can certainly</p> <p>16 understand why it's helpful to lead the witness and lead me</p> <p>17 through some of the exhibits that the witness has prepared.</p> <p>18 But I just would like to remind everyone that you have the</p> <p>19 opportunity to compile all this information and make an</p> <p>20 argument to me rather than having a witness testify to that</p> <p>21 in advance. So if there's something unique about this</p> <p>22 witness's testimony, which has been certainly on point up</p> <p>23 until now, I just would like, in the interest of time, to</p> <p>24 make sure that you are not using a witness to provide</p> <p>25 argument when you will have -- you will certainly have the</p>	<p>1 THE COURT: Okay. All right.</p> <p>2 MS. TANABE: I apologize. I was -- I thought</p> <p>3 there had been an agreement that it was admitted, but I</p> <p>4 think at the housekeeping section of the hearing, we did not</p> <p>5 cover that.</p> <p>6 MR. VERSTANDIG: To be clear, we'd be thrilled to</p> <p>7 have admitted right now and save us a question later today.</p> <p>8 MS. TANABE: I think there may have been an</p> <p>9 oversight. I think there was an intention to agree that it</p> <p>10 was admitted, Mac, or Mr. VerStandig.</p> <p>11 THE COURT: So are you moving for the court to</p> <p>12 receive it right now, or are you just moving to a new</p> <p>13 question?</p> <p>14 MS. TANABE: I would like to move for it to be</p> <p>15 admitted based on the parties' agreement that it's</p> <p>16 admissible.</p> <p>17 MR. VERSTANDIG: Thank you, Ms. Tanabe. And</p> <p>18 obviously no objection from the plan proponent, and it's</p> <p>19 appreciated.</p> <p>20 THE COURT: Okay. Then the court will receive the</p> <p>21 second amended plan filed at Document 181.</p> <p>22 (Exhibit 181 entered into evidence)</p> <p>23 MS. TANABE: And if I can respond, I think I would</p> <p>24 like a chance to at least just chime in on the objection.</p> <p>25 It is legally relevant under Section 1112, especially the</p>

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<p>1 unusual circumstances test that the debtor is purporting to</p> <p>2 have filed a 100 percent plan. In the case law for our</p> <p>3 circuit, that is one of the most compelling examples of</p> <p>4 unusual circumstances. And so being allowed to ask</p> <p>5 questions about whether this really is 100 percent plan is</p> <p>6 directly relevant to the legal issues before the court. And</p> <p>7 so us -- precluding us from entering evidence about whether</p> <p>8 this really is a 100 percent plan and therefore whether</p> <p>9 there really are unusual circumstances in this case would be</p> <p>10 a disadvantage for us. And I think the possibility of</p> <p>11 confirming a plan is also legally relevant. And so we were</p> <p>12 not trying to go on a tangent so much as to -- I'm happy to</p> <p>13 say it's the debtor's burden to prove the existence of those</p> <p>14 unusual circumstances. But I was anticipating that that was</p> <p>15 in fact their plan and hoping to address that.</p> <p>16 THE COURT: So let me be clear. I was not</p> <p>17 precluding you from offering any evidence. I was sustaining</p> <p>18 an objection to interpretation of the plan. What you may</p> <p>19 certainly offer, and what I suggested before is you can</p> <p>20 offer the bank's perspective on what you believe the bank is</p> <p>21 owed. You can tell me the sum of money. You can tell me</p> <p>22 the sum of the payments. All of those things frame what the</p> <p>23 bank perceives that it is owed. It's just interpreting the</p> <p>24 plan is what I sustained. So you can have the witness</p> <p>25 testify about the bank's perspective, including what debt is</p>	<p>1 the bank perceive that the debtor can cash flow using all</p> <p>2 the other metrics that the debtor used, of course you can do</p> <p>3 that. Same for your perspective about what the debt is</p> <p>4 owed. So I am not limiting the ability to give the bank's</p> <p>5 perspective. I am sustaining an objection to the narrow</p> <p>6 question that was specifically asked at the time.</p> <p>7 MS. TANABE: I will try again.</p> <p>8 BY MS. TANABE:</p> <p>9 Q So Ms. Harless, you've reviewed the debtors plan and</p> <p>10 you frequently -- you've testified that you frequently</p> <p>11 evaluate the cash flow of your customers. Is it your</p> <p>12 opinion as a banker, from a banker's perspective, that the</p> <p>13 debtor, that The Ruins can generate enough cash flow to make</p> <p>14 the payments that it has promised to make under or proposed</p> <p>15 to make under the plan?</p> <p>16 A I don't believe there's enough cash flow for The Ruins</p> <p>17 to be able to cash flow the payments in the plan.</p> <p>18 Q How much do you think the debtors -- have you tried to</p> <p>19 calculate whether there will be a shortfall?</p> <p>20 A In cash flow?</p> <p>21 Q Yes.</p> <p>22 A Yes. So I referenced the -- I think it was July of</p> <p>23 '25, the 2025 appraisal and the appraiser included \$495,000.</p> <p>24 I don't know the -- \$495,000 in net operating income. So</p> <p>25 that's the amount of net income that's available to make</p>
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<p>1 owed, whether they think it can cash flow, all the things.</p> <p>2 MS. TANABE: Okay. That is where in fact we were</p> <p>3 going. And so I think I will assume that I'm not going to</p> <p>4 get a foundation objection then to foregoing a review of</p> <p>5 what the plan payments would actually cost.</p> <p>6 THE COURT: No, that isn't what I just said. You</p> <p>7 may solicit information --</p> <p>8 MS. TANABE: No, I understand that.</p> <p>9 THE COURT: -- about the bank's perspective of</p> <p>10 what it's owed. So there isn't a nobody gets to object to</p> <p>11 anything. I certainly didn't mean to suggest that. So</p> <p>12 foundation objections could still occur if the witness</p> <p>13 testifies about what the debtor said in the plan as opposed</p> <p>14 to what it perceives it is owed. I'm not -- I hope we're on</p> <p>15 the same page here.</p> <p>16 MS. TANABE: I think I'm being asked to formulate</p> <p>17 a question about whether a project can cash flow without</p> <p>18 being allowed to put in a baseline for how much cash the</p> <p>19 project needs to generate in order to have cash above and</p> <p>20 beyond or at that level. So I will try --</p> <p>21 THE COURT: No, I'm not -- no, I'm not doing that.</p> <p>22 It was interpreting the plan. Now you can -- if the witness</p> <p>23 is asked to take a look at the plan and interpret it without</p> <p>24 -- you can ask questions about cash flow. It was only what</p> <p>25 did the debtor say in the plan. I can read that. What does</p>	<p>1 debt service. And if you just take 495 divided by 12,</p> <p>2 that's \$41,250 a month in available excess cash flows to</p> <p>3 apply to debt service, which is underneath -- I mean just</p> <p>4 the first, the \$55,000 that was proposed for our class, the</p> <p>5 income is underneath just even that first, that first entry</p> <p>6 into the gate.</p> <p>7 Q So how much do you think the debtor would have to</p> <p>8 generate just to break even? You can do it per month or per</p> <p>9 year.</p> <p>10 A Say it one more time.</p> <p>11 Q How much cash flow would the debtor need to generate</p> <p>12 just to break even on the proposed plan payments.</p> <p>13 A During the bankruptcy period? During what period?</p> <p>14 Q If the debtor made all the payments it's promising to</p> <p>15 make under the plan, not the takeout financing but after.</p> <p>16 Before takeout financing and after commencement of the. I</p> <p>17 guess it's the payment commencement date. So prior to</p> <p>18 takeout financing, how much cash flow would the debtor need</p> <p>19 to generate to make the monthly payments do under the plan?</p> <p>20 MR. VERSTANDIG: Either the plan speaks for itself</p> <p>21 or it calls for an expert opinion. And it's not both. It's</p> <p>22 going to be one or the other.</p> <p>23 MS. TANABE: Can I respond?</p> <p>24 MR. VERSTANDIG: Can I keep going for a second?</p> <p>25 MS. TANABE: Sure.</p>

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<p>1 MR. VERSTANDIG: To the extent the witness is</p> <p>2 being asked to interpret the payment provisions of the</p> <p>3 document and simply apply the laws of mathematics, the</p> <p>4 numbers contained therein, the document speaks for itself.</p> <p>5 The witness has no topical expertise. The witness doesn't</p> <p>6 add anything to the colloquy. To the extent the witness is</p> <p>7 being asked to add some expertise to the colloquy, namely</p> <p>8 the witness's acute knowledge of how finance works in X</p> <p>9 sphere, Y industry, whatever it may be, that's the</p> <p>10 solicitation of an expert opinion from someone who has not</p> <p>11 been qualified, much less offered as an expert.</p> <p>12 MS. TANABE: May I respond? Yes, please. And</p> <p>13 this is what I was trying to avoid. And I think we're being</p> <p>14 told that she's either not an expert and that people can do</p> <p>15 math. Whether the document speaks for itself, we're being</p> <p>16 shut down from testifying on something that's directly</p> <p>17 relevant to the legal standard in this case. We just</p> <p>18 established that she's allowed to testify from a banker's</p> <p>19 perspective about whether or not the plan, cash flows. And</p> <p>20 this is just kind of repetitive interference with our</p> <p>21 ability to put in evidence about something that's directly</p> <p>22 relevant.</p> <p>23 THE COURT: So I assume. I haven't looked at this</p> <p>24 particular plan. Is there a cash flow statement attached to</p> <p>25 it or with it?</p>	<p>1 the debt will be and whether there are weaknesses that a</p> <p>2 financial analyst or a banker could recognize in any cash</p> <p>3 flow that the debtor has proposed. I can see that, but the</p> <p>4 specific foundation objection raises concerns as to the</p> <p>5 particular question. So if you want to lay more foundation,</p> <p>6 that's an option, but at this particular time, I don't know,</p> <p>7 other than being a banker, whether you've laid. I don't</p> <p>8 think you've laid unless you refresh my memory foundation</p> <p>9 sufficient for her to be the person to do the cat.</p> <p>10 MS. TANABE: Cash flow. Understood. I think</p> <p>11 we're in the difficult position of reviewing a plan without</p> <p>12 a cash flow with wording that doesn't make it clear what the</p> <p>13 debtor is really proposing to pay.</p> <p>14 THE COURT: Yes.</p> <p>15 MS. TANABE: And we're up against the debtor who</p> <p>16 is purporting it's 100 cent plan, which is legally relevant</p> <p>17 in this context.</p> <p>18 THE COURT: So you'll have to either argue the</p> <p>19 weaknesses or have your witness highlight the weaknesses</p> <p>20 that are specifically relevant to the bank.</p> <p>21 MS. TANABE: Okay. Ms. Harless, were you present</p> <p>22 when.</p> <p>23 THE COURT: I'm sorry, Were you.</p> <p>24 MS. TANABE: Oh, was I supposed to continue? I'm</p> <p>25 sorry.</p>
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<p>1 MS. TANABE: No. Okay. Which is why we have to</p> <p>2 do this.</p> <p>3 THE COURT: Okay.</p> <p>4 MS. TANABE: So I'm trying to. So the debtor.</p> <p>5 THE COURT: So I get your concern. So it's one</p> <p>6 thing for counsel to argue that the debtor is short on cash</p> <p>7 flow. It's another thing for the debtor to offer a cash</p> <p>8 flow statement that shows, you know, whether the plan. The</p> <p>9 payments in the plan. The sum of the payments in the plan.</p> <p>10 So the debtor's presumably going to attach one. The concern</p> <p>11 here is whether this witness is the person to actually go</p> <p>12 through and prepare cash flow. Maybe there's foundation</p> <p>13 that you want to lay for this person to go through and do</p> <p>14 that which is part of the foundation. Expert, Expert</p> <p>15 witness, Foundation. Objection. It's another thing for the</p> <p>16 witness to go through and say the sum of money that the</p> <p>17 debtors have or debtor has allocated to pay the bank is</p> <p>18 insufficient to meet whatever debt requirements the</p> <p>19 contracts provide. This witness is without question</p> <p>20 qualified to do that. It's possible that you could lay</p> <p>21 sufficient foundation for her to be an expert in cash flow</p> <p>22 and finance to give me the same answer. But I also know</p> <p>23 that you can do the Math and provide it to me in argument.</p> <p>24 So if this witness has a unique expertise that you think</p> <p>25 it's helpful for me to know from the bank's perspective what</p>	<p>1 THE COURT: So I want. I Just for the record.</p> <p>2 The objection is sustained. And so now I'm going to invite</p> <p>3 you to ask the next question without me interrupting.</p> <p>4 MR. VERSTANDIG: Sorry about that.</p> <p>5 THE COURT: This is tricky with this video.</p> <p>6 MS. TANABE: Thank you. It is. I apologize. I</p> <p>7 was unclear.</p> <p>8 BY MS. TANABE:</p> <p>9 Q So, Ms. Harless, were you present when Ms. Craig</p> <p>10 testified that The Ruins project as stabilized, which she</p> <p>11 defined as having 5 percent vacancy or less, that it would</p> <p>12 generate \$60,000 per month in net cash available? Yes, I</p> <p>13 think she called it net operating income. And.</p> <p>14 A Yes.</p> <p>15 Q And then your. And in your opinion is that. I could</p> <p>16 ask, do you believe the plan is feasible?</p> <p>17 MR. VERSTANDIG: Objection. Calls for a legal</p> <p>18 conclusion.</p> <p>19 MS. TANABE: I'll rework. I'm happy to rephrase</p> <p>20 it.</p> <p>21 BY MS. TANABE:</p> <p>22 Q Okay. Do you believe that's enough cash to pay the</p> <p>23 bank? What? The debtor has proposed to pay you under class</p> <p>24 one of the plan.</p> <p>25 A I don't believe that's enough cash flow. Just the</p>

<p style="text-align: right;">Page 102</p> <p>1 60,000. Using this. So. 92 percent of all the net  2 operating income is going to the one class, not including  3 the other classes. I just know offhand that's not going to  4 globally cash flow.  5 Q So do you believe that the plan would default or. I  6 mean, sorry. Do you believe that the debtor would fail to  7 make the payments and that you would end up in another  8 Default situation with The Ruins.  9 A So when the underlying property does not have enough  10 cash flow, it typically waterfalls over to the guarantors.  11 And that's the exact situation that we're in here, is we  12 weren't getting payments. So I don't think things are going  13 to change in the future where they're going to supplement  14 any cash flows they would have already.  15 Q Okay. So if the plan was a new loan proposal, would  16 you approve it?  17 A No, no, not on these terms at all.  18 Q Would the risk of payment default be acceptable or  19 unacceptable to you? As an experienced lender.  20 A It would be well outside the risk parameters that a  21 normal bank would underwrite on.  22 Q Okay. Thank you. I'm going to switch gears a little  23 bit now. The plan also talks about the concept of takeout  24 financing. Would it help you to look at that definition in  25 the plan or do you know what that means?</p>	<p style="text-align: right;">Page 104</p> <p>1 Q And if the plan had an equity injection, how much would  2 you be comfortable with? What would make you think that  3 takeout financing was possible and that your unsecured claim  4 would actually get paid? How much would that injection need  5 to be for you to believe that your plan, your unsecured  6 claim would be paid?  7 A Can you rephrase that because my mind goes in two  8 different directions related to your question.  9 Q So you've stated that you don't think the debtor's  10 financial conditions would make takeout financing likely and  11 that if you have an unsecured claim in the case, which you  12 anticipate you will, you've said that you don't think it  13 will get paid off by takeout financing. And I think you  14 started to say, but I'm not sure. So I'm asking you, do you  15 know what changes the debtor could make to the plan that  16 would make you believe the takeout financing would benefit  17 your claim or pay your claim?  18 MR. VERSTANDIG: Objection, Relevance. And to a  19 lesser degree, speculation. I think part of the question  20 sheds light on the inappropriateness of this witness for the  21 interpretation of a plan. The question is premised in part  22 upon the idea that part of the claim may be unsecured. The  23 foundation laid assumes a forward looking role of interest  24 on the totality of the bank's claim. Now, if a legal expert  25 were to opine on a Chapter 11 plan, they would note that</p>
<p style="text-align: right;">Page 103</p> <p>1 A If you could bring it up, that'd be helpful.  2 Q It's in the definition section at the beginning of the  3 document, so we could scroll backward. They're alphabetized  4 at takeout. Oh, we just passed it. There it is. It's  5 double M there at the top of the page. Does that help to  6 remind you?  7 A Yes.  8 Q Okay. So. From your perspective As a Class 1 creditor  9 with a claim in excess of \$11 million, how confident are you  10 that the debtor would be able to get take out financing as  11 it's described in the plan?  12 A I don't have any confidence that based on the asset  13 value of the last appraisal using, I mean, even using  14 today's numbers compared to what the secured amount of our  15 claim is, the 11 million or even future looking, the debt is  16 going to be way in excess of what you can finance. There's  17 going to have to be a significant haircut.  18 Q So if the bank was to end up with an unsecured  19 deficiency claim in this case, and the debtor purports to  20 have a 100 cent claim or 100 cent plan where they're going  21 to pay all claims in full, What would need to happen? Let  22 me rephrase that. Did you just testify that you're not  23 confident that would happen?  24 A Based on the numbers, I don't see how it's possible  25 without significant, without a significant equity injection.</p>	<p style="text-align: right;">Page 105</p> <p>1 there isn't going to be an accrual of a trespass petition on  2 the unsecured portion of a claim. But presumably, and I  3 haven't asked the witness, I don't think she'd be aware of  4 that, nor should she be aware of that, nor is that within a  5 banker's field. So we're asking a lay witness to opine on a  6 Chapter 11 plan. I think it was reasonable to ask what the  7 cash flow would need to be. It's reasonable to ask what  8 equity injection would give the bank comfort or confidence.  9 But asking what legal tweaks would be made to a legal  10 document in a hypothetical universe just seems outside the  11 normative contours of what's appropriate.  12 MS. TANABE: Should I respond?  13 THE COURT: Sure you can.  14 MS. TANABE: Yes, I'm asking her about her claim  15 and the likelihood that she perceives that her claim will be  16 paid in full by the plan.  17 THE COURT: Right. And your focus here is on  18 takeout financing. And her expertise is as a banker in  19 financing.  20 MR. VERSTANDIG: So.  21 THE COURT: In my memory the question was within  22 her area of expertise and the bank's claim. So unless I  23 missed the question, which I don't think I did, the  24 objection is overruled. Do you remember the question?  25 THE WITNESS: Could you restate it? I think I do,</p>



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<p>1 but.</p> <p>2 THE COURT: Okay, sure.</p> <p>3 BY MS. TANABE:</p> <p>4 Q Try again. Okay. That was a lot of words. So let's</p> <p>5 bring us back to where we were. Do you know the value of</p> <p>6 your. The current amount of your allowed claim in the case</p> <p>7 and under the plan?</p> <p>8 A I believe it's 11 million 90.</p> <p>9 Q And you're aware that the debtors plan purports to pay</p> <p>10 all claims in full?</p> <p>11 A Correct.</p> <p>12 Q And how confident are you that takeout financing would</p> <p>13 be available to pay your claim in full?</p> <p>14 A I the prop. Just on our claim based on the 11 million</p> <p>15 building in the normal equity margin, that mean. That means</p> <p>16 the property would have to go up to 13,862,500 about. So</p> <p>17 either that or from like a. Yeah, I have nothing further to</p> <p>18 say on that. Sorry.</p> <p>19 Q Okay. So you're not confident that the billing will go</p> <p>20 up in value and enough to make takeout financing pay your</p> <p>21 claim in full.</p> <p>22 A When I read the plan document, including all the</p> <p>23 numbers for all the different classes, it got to like 15.9</p> <p>24 million. Which means if you work that backwards based on</p> <p>25 the equity factor, the property would have to appreciate to</p>	<p>1 benchmark metrics are we talking about? You know, value,</p> <p>2 the proper property is one of them and the net operating</p> <p>3 income of the property is another. Those are two really key</p> <p>4 pieces how that relates to our \$11 million claim the</p> <p>5 property. So a bank, when they're underwriting, they would</p> <p>6 look at the property at \$7,070,000 and your max loan-to-</p> <p>7 value on that would be 5,302,000. So, you know, that's a 6</p> <p>8 million dollar difference. That would have to.</p> <p>9 Theoretically, an equity injection to bridge the difference</p> <p>10 just on our amount based on. I mean, I don't know if that's</p> <p>11 what you're asking.</p> <p>12 Q What was the last part you said about it? Did you say</p> <p>13 equity injection? Yeah.</p> <p>14 A It'd have to be cash. Something has to bridge the gap.</p> <p>15 Because if the Property's only worth 7 million, but our</p> <p>16 claim's 11, the bank's going to be using the 7,070,000,</p> <p>17 assuming that's what the amount on the appraisal was as</p> <p>18 completed value. This is assuming takeout financing. So</p> <p>19 you work it backwards because you need a 25 percent equity</p> <p>20 cushion. And so if you work that backwards, that max loan</p> <p>21 amount is 5.3 million. And so between 5.3 million and 11</p> <p>22 million for us to be made whole, something's got to come up</p> <p>23 with the difference. What's going to come up with the</p> <p>24 difference? I mean, the only thing that could possibly be</p> <p>25 would be a property appreciation. But going from 7 million</p>
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<p>1 22 million based on the current debt level, assuming 100</p> <p>2 percent payout. That was my understanding.</p> <p>3 Q And in from your perspective as a bank, would you be</p> <p>4 willing to offer that type of takeout financing for The</p> <p>5 Ruins?</p> <p>6 A No, not based on the appraised value.</p> <p>7 Q Okay, and would it matter if. Would your answer change</p> <p>8 if there was a capital contribution from the building owner?</p> <p>9 A Would it change from just Red River's perspective?</p> <p>10 Q Yeah. From the bank's perspective, if the building</p> <p>11 doesn't go up in value, is there anything else that would</p> <p>12 make you believe that the takeout financing could pay your</p> <p>13 \$11 million claim in full?</p> <p>14 A Sorry, you're asking the question kind of from a</p> <p>15 backwards standpoint because my brain has to convert because</p> <p>16 there's multiple things at play here. So just using \$11</p> <p>17 million. So if you're assuming the value of the property is</p> <p>18 at \$7,070,000 I think is -- which was the appraised amount</p> <p>19 for as completed, I believe the total value of the -- I</p> <p>20 don't know how to answer this in a concise way because the</p> <p>21 decisioning kind of bifurcates and like you can't sometimes</p> <p>22 when you're underwriting something, one invalidates the</p> <p>23 other because you need both talking equity and cash flow.</p> <p>24 So I'm struggling kind of mentally going through this</p> <p>25 exercise. Just with which benchmark rates or which</p>	<p>1 to. I think I said 13 million to take out our claim by the</p> <p>2 what, the required equity portion. Normal, based on normal</p> <p>3 rates and terms and conditions. And you could make the</p> <p>4 argument that bankruptcy may not be normal rates and term</p> <p>5 condition type, but 25 percent. Something's got to bridge</p> <p>6 the gap. You follow me?</p> <p>7 Q Okay. So you used the phrase equity injection. Can</p> <p>8 you just say in simple terms what that would mean?</p> <p>9 A Cash or cash equivalents.</p> <p>10 Q And where would equity injections come from typically?</p> <p>11 Or who would it come from?</p> <p>12 THE COURT: Sorry?</p> <p>13 A Typically they come from the ownership group, the</p> <p>14 guarantors.</p> <p>15 Q And how much did you say that equity injection would</p> <p>16 have to be? I just didn't catch you.</p> <p>17 A I think it's around 6. Well, 5.3. So let me write</p> <p>18 this number down. So if our secured claim amount is</p> <p>19 11,090,000 and the max loan amount is 5,302,500, the net</p> <p>20 difference between those two numbers is 5,787,500, which</p> <p>21 would have to be some sort of an equity injection because</p> <p>22 that's when you determine the 7 million as the asset value</p> <p>23 for completed. You have to have a 25 percent equity</p> <p>24 cushion. So that's how you get to the 5.3. So that's the</p> <p>25 net difference. So something would need to bridge the gap.</p>

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<p>1 Q Thank you. Okay. So I just want to switch gears a 2 little bit. Sharon, could you scroll up just a little bit 3 till you get to the word Tiffany? Oh, no, I'm sorry. I'm 4 sorry, I have the wrong document. Could you replace docket 5 1? We replace the left hand side of the screen with Docket 6 Number 178. I'm just going to use this to refresh a 7 recollection if needed. Let me scroll down to the 8 definition of a Tiffany.</p> <p>9 MR. VERSTANDIG: Not an objection, but just a 10 comment. For the record, I want to be very clear that 11 either counsel's about to read or ask the witness to read 12 into the record something from a creditor plan three days 13 before the exclusivity date.</p> <p>14 THE COURT: I think it's more than three days. I 15 think it's a month and three days. But yes, I'm concerned 16 that this is the document that's used to refresh 17 recollection when I've heard so much about Tiffany.</p> <p>18 Q Okay, we can take it down. It's fine.</p> <p>19 MR. VERSTANDIG: Thank you, Your Honor.</p> <p>20 Q And okay. So are you familiar with the WDC's claim in 21 this case?</p> <p>22 A Yes.</p> <p>23 Q Okay, and are you familiar with the TIF.</p> <p>24 A Tax increment financing as it involves with rooms.</p> <p>25 Q And you heard Josh Luther testify yesterday about the</p>	<p>1 appraiser to do it in one out of the four reports.</p> <p>2 THE COURT: That question is not objectionable.</p> <p>3 I'm not sure that's the question that was asked, but that.</p> <p>4 Q So I. Should I re.</p> <p>5 THE COURT: Ask what she just asked?</p> <p>6 Q Current question? Yeah.</p> <p>7 A If you could repeat, that'd be wonderful.</p> <p>8 Q Okay. Why do you recall? Why now? I can't remember 9 my own question. Why did the bank only hire the appraiser 10 to appraise the TIF in one of the four reports?</p> <p>11 A So in the last report. From the bank's perspective, 12 the TIF is largely irrelevant from a. For what our exercise 13 was we were trying to value the property. And since the -- 14 or since the future revenue streams had been assigned, that 15 is no longer an asset of the debtor. So for us, it didn't 16 need to be included because it was essentially irrelevant 17 from our perspective.</p> <p>18 Q Okay. Thank you. Has the bank actually received any 19 TIF revenue yet?</p> <p>20 A No, we've not received any TIF revenue.</p> <p>21 Q Okay, and I just have one more question. Or one. Just 22 a couple questions on one topic. So for housekeeping 23 purposes, I think we're nearing the end of this line of 24 questions. So do you recall yesterday that Mr. Luther 25 testified that the architectural drawings in his appraisals</p>
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<p>1 TIF revenue?</p> <p>2 A Yes.</p> <p>3 Q Or the appraised value of the TIF? What's your 4 understanding of who owns the TIF revenue right now?</p> <p>5 A So the TIF revenue was assigned and it was assigned 6 from the developer to the WDC. And then the WDC assigned 7 first out portion to Red River State Bank in the amount of 8 580,000.</p> <p>9 Q So do you understand, based on your understanding, do 10 you think the bank and the WDC own the TIF? Would that be 11 fair to say?</p> <p>12 A We were assigned the revenues. So, I mean, in lay 13 terms, yeah, you could say we own those future revenues.</p> <p>14 Q Okay, and when Mr. Luther was testifying, he was asked 15 why CBRE only valued the TIF in three out of the four 16 appraisal reports. Do you know why it was only in three out 17 of the four appraisal reports?</p> <p>18 MR. VERSTANDIG: Objection. Calls for 19 speculation. And is testifying as to why someone else did 20 or did not put something in their report.</p> <p>21 Q Can I respond?</p> <p>22 THE COURT: Yes, you may.</p> <p>23 Q Yesterday, Mr. Luther testified that the reports were 24 ordered by the customer. The customer was the bank. I'm 25 asking her if she recalls why the bank only hired the</p>	<p>1 were provided to him? Yes, and I think he said those were 2 provided to him by the bank. Do you agree with that?</p> <p>3 A Yes, we would get the appraisals provided. No, we 4 would get the. Say that again. Making sure I'm not.</p> <p>5 Q Architectural drawings. Yeah. So he said that the 6 architectural drawings were given to CBRE by the bank. 7 Where did the bank get those drawings?</p> <p>8 A We would have received them from the customer, Jesse 9 Craig.</p> <p>10 Q And I think he testified that the drawings were 11 different for the first three reports than the fourth 12 report. Did you provide a different set of drawings to him 13 for the fourth report?</p> <p>14 A Yes, we did. The first three reports, that was the 15 information that we had that was provided to us. So we 16 assumed that was true and accurate. And the last appraisal. 17 Sorry, I've been talking about appraisals too much. Last 18 architecture, that piece, we had subpoenaed TL Stroh and 19 received copies directly from him. And based on some of the 20 inconsistencies that we had seen at that time and other file 21 documentation provided by the borrower, we instructed the 22 appraiser to only use documentation that we provided, which 23 would come from subpoenas, basically validated 24 documentation.</p> <p>25 Q So you testified that the fourth appraisal had</p>



<p style="text-align: right;">Page 114</p> <p>1 documents, had drawings that had been subpoenaed directly</p> <p>2 from the architect, correct?</p> <p>3 A Correct.</p> <p>4 Q And what was the difference between the drawings from</p> <p>5 the architect versus the drawings that were supplied by your</p> <p>6 customer?</p> <p>7 A The square footage was different. Comparing the first</p> <p>8 appraisal square footage and just using the net rentable</p> <p>9 area to the last one, it was 11 percent square footage</p> <p>10 difference in the net rentable area.</p> <p>11 Q So was the customer provided drawings bigger or smaller</p> <p>12 than the architect provided drawings?</p> <p>13 A The customer inflated the size of the building, so the</p> <p>14 customer provided bigger than what was actually built.</p> <p>15 Q And what impact would that have on you as a bank when</p> <p>16 making.</p> <p>17 A Sorry?</p> <p>18 Q What Impact would the building. Sorry, I'll start</p> <p>19 over. If the customer provided drawings that were 11</p> <p>20 percent larger in net rentable area than the drawings from</p> <p>21 the architect, what impact would that have on your decision</p> <p>22 to loan money for The Ruins project.</p> <p>23 A At that time?</p> <p>24 Q At the time. At the beginning of the project, yep.</p> <p>25 A So at those times we would utilize higher numbers, and</p>	<p style="text-align: right;">Page 116</p> <p>1 invite you to ask a new question.</p> <p>2 MS. TANABE: Okay. Thank you.</p> <p>3 BY MS. TANABE:</p> <p>4 Q So you testified that the customer provided documents</p> <p>5 were 11 percent bigger than the architect provided drawings.</p> <p>6 How did that affect your decision? How did that affect the</p> <p>7 loan-to-value ratio in your loan approval process?</p> <p>8 MR. VERSTANDIG: Objection. The question seems to</p> <p>9 contravene the time space continuum. I think we're being</p> <p>10 asked how something discovered in connection with the July</p> <p>11 2025 of appraisal. That's an evidence that impacted the</p> <p>12 approval of loan documents from 2021 that are in evidence.</p> <p>13 MS. TANABE: Can I respond?</p> <p>14 MR. VERSTANDIG: Yes, you may.</p> <p>15 MS. TANABE: So the court has invited us to</p> <p>16 continue testifying about cause. First of all, I think that</p> <p>17 Mr. VerStandig also created some confusion on cross-</p> <p>18 examination of Mr. Luther yesterday that he wasn't really</p> <p>19 qualified to testify about the origin of the different</p> <p>20 documents and the different sizes, which would allow the</p> <p>21 court to draw an inaccurate inference about why the report</p> <p>22 changed. It is also relevant because under cause, the bank</p> <p>23 has been testifying about, I guess what we called arts and</p> <p>24 crafts before, and this is another example of arts and</p> <p>25 crafts. So it has more than one form of relevance.</p>
<p style="text-align: right;">Page 115</p> <p>1 so we would have lent more money than we should have.</p> <p>2 Q Did it change the value of your collateral?</p> <p>3 MR. VERSTANDIG: Objection. Calls for an expert</p> <p>4 opinion as devaluation.</p> <p>5 Q May I respond?</p> <p>6 THE COURT: Sure.</p> <p>7 Q I'm trying to ask her what she remembers about the</p> <p>8 decision to extend credit to the debtors. Then the impact</p> <p>9 of the inflated drawings. As you testified, that they were</p> <p>10 11 percent bigger.</p> <p>11 MR. VERSTANDIG: It's not a relevance objection.</p> <p>12 The question's whether it had an impact on value. That</p> <p>13 would call for an expert opinion. The Supreme Court</p> <p>14 building is smaller than my neighbor's farm, but I promise</p> <p>15 you it's of a higher value than my neighbor's farm. An</p> <p>16 appraiser would be able to test hard at the valuation of the</p> <p>17 two respective buildings and structures. This witness is</p> <p>18 not qualified or has not been qualified to do so.</p> <p>19 MS. TANABE: I'm asking her how it factored into</p> <p>20 her decision to loan money to the debtor.</p> <p>21 THE COURT: Well, you haven't asked that yet. So</p> <p>22 the way the question came out is how does it affect the</p> <p>23 value of collateral?</p> <p>24 MS. TANABE: So I can reword.</p> <p>25 THE COURT: I'm going to sustain the objection and</p>	<p style="text-align: right;">Page 117</p> <p>1 THE COURT: There's no question that it has</p> <p>2 relevance. The objection Related to the clarity of the</p> <p>3 question about the time frame. So the ratio, the dollar per</p> <p>4 value. I'm sorry, what is the loan-to-value ratio? The</p> <p>5 loan-to-value ratio. The way the question came out, it's</p> <p>6 not clear that, that you were asking about the loan-to-value</p> <p>7 ratio when in the inception or today or sometime in between.</p> <p>8 So as I understood, the objection relates to the lack of</p> <p>9 context. So if that's the objection that I'm sustaining.</p> <p>10 So if you can, can you provide some time frame so that I'm</p> <p>11 clear about the perspective of when we're talking about from</p> <p>12 the beginning, would it affect loan-to-value from today?</p> <p>13 Does it affect loan-to-value from the date of petition? So</p> <p>14 give me some context.</p> <p>15 BY MS. TANABE:</p> <p>16 Q Okay. So this is last question, I hope. Danielle, you</p> <p>17 testified that if the building size was 11 percent. You</p> <p>18 testified that if the customer told you the net rentable</p> <p>19 area was larger that the amount of money you would loan</p> <p>20 would be greater. With the benefit of hindsight, do you</p> <p>21 think you loaned more money? Do you think the bank loaned</p> <p>22 more money then it intended to loan to the debtors? Yes.</p> <p>23 And or stated differently, do you believe the bank was</p> <p>24 misled about the value of its collateral?</p> <p>25 A Yes.</p>

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<p>1 Q When you approved the loan?</p> <p>2 A Yes.</p> <p>3 MS. TANABE: Okay. Thank you. I think that is</p> <p>4 the end of our questions on direct. Let me just have a</p> <p>5 brief moment to check in.</p> <p>6 THE COURT: Sure.</p> <p>7 MS. TANABE: Yeah. We have nothing further.</p> <p>8 THE COURT: I think this would be a good time for</p> <p>9 a break. I guess my question is do you want a real lunch</p> <p>10 break as in till 1 o'clock or do you want to just take 15</p> <p>11 minutes? I'm not sure how much more evidence you have for</p> <p>12 today and so can you give me an estimate or your preference</p> <p>13 about how we should proceed? Let's start with the bank</p> <p>14 because it's your witness.</p> <p>15 MS. TANABE: So this was the -- all the questions</p> <p>16 we were planning to ask Ms. Harless. Let me just check with</p> <p>17 my co counsel. Okay.</p> <p>18 MS. STANLEY: I don't think that we have any more</p> <p>19 witnesses on direct. So the rest would be Mr. VerStandig's</p> <p>20 cross-examination and whatever he decides, I think he</p> <p>21 indicated yesterday he had three witnesses. That would be</p> <p>22 less than an hour between all three. He swore that up and</p> <p>23 down.</p> <p>24 THE COURT: So tell me from all of your</p> <p>25 perspective, do you want to take a 45-minute break or a 15-</p>	<p>1 case. And having reviewed the redlined version, there are</p> <p>2 material changes to the disclosure statement. So as</p> <p>3 anticipated, the court canceled the hearing on the</p> <p>4 disclosure statement. And I'll schedule a hearing on the</p> <p>5 new disclosure statement. Twenty-eight days ends up to be</p> <p>6 December 22nd, which would mean hearing on December 23rd.</p> <p>7 Unless the parties have real objections, it would</p> <p>8 be my plan to put it on my ordinary hearing date for</p> <p>9 January, which would be January 8th. Are there any concerns</p> <p>10 about postponing that hearing until January 8th? Mr.</p> <p>11 VerStandig? I'll look to you first. Oh, you're on mute.</p> <p>12 MR. VERSTANDIG: Thank you, Your Honor. No</p> <p>13 concerns. I'm looking at my calendar. I have something in</p> <p>14 Maryland on January 8th, but I suspect it can be easily</p> <p>15 moved.</p> <p>16 THE COURT: Okay. Or I think I have some time</p> <p>17 earlier that week too. We could hold on one second. I</p> <p>18 think I might have time on the 6th and 7th.</p> <p>19 MR. VERSTANDIG: Your Honor, either of those would</p> <p>20 work wonderfully.</p> <p>21 THE COURT: Do you have a preference as between</p> <p>22 the two?</p> <p>23 MR. VERSTANDIG: Marginal preference for the 6th</p> <p>24 only because it would let me fly back that night, but fairly</p> <p>25 agnostic.</p>
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<p>1 minute break? I'm good with either.</p> <p>2 MS. STANLEY: Let's do 45.</p> <p>3 MR. VERSTANDIG: If the bank is done with its case</p> <p>4 in chief, my cross of Ms. Harless, I can't say it's going to</p> <p>5 be short, but I hope it'll be snappy, if that makes sense.</p> <p>6 And then our witnesses, I actually stand by the estimation</p> <p>7 from yesterday, should be relatively brief. One will be</p> <p>8 moderately longer than the others, but nothing is going to</p> <p>9 be of epic duration.</p> <p>10 THE COURT: So you think 45 minutes would be Okay.</p> <p>11 Then we'll press forward afterward?</p> <p>12 MR. VERSTANDIG: Yes, sure. That would take us to</p> <p>13 1 o'clock. And can I assume the courts will only go until 5</p> <p>14 p.m.</p> <p>15 THE COURT: Yes, for sure.</p> <p>16 MR. VERSTANDIG: I'm confident that we can do our</p> <p>17 cross and our case in chief in, well, less than four hours.</p> <p>18 THE COURT: Okay, well then we can have a whole 45</p> <p>19 minutes for lunch. So let's take a break. This matter</p> <p>20 stands in recess until 1 o'clock.</p> <p>21 (Off the record.)</p> <p>22 THE COURT: Okay. We're back on the record with</p> <p>23 Bankruptcy Case Number 24-30004, In re The Ruins. Before we</p> <p>24 get back to witness testimony, over the noon hour, I noticed</p> <p>25 that the amended disclosure statement was filed in this</p>	<p>1 THE COURT: What about the calendars for Red River</p> <p>2 State Bank? Any preference as between the sixth or seventh?</p> <p>3 MS. TANABE: I have a conflict on the 6th, so.</p> <p>4 THE COURT: Okay.</p> <p>5 MS. TANABE: Sorry.</p> <p>6 THE COURT: What do I have on the 6th and 7th?</p> <p>7 MS. TANABE: Is the 7th possible?</p> <p>8 THE COURT: Early on the 7th? I have the 7th. I</p> <p>9 have the morning of the 7th open. No? What trial? I do</p> <p>10 have a trial. Oh, yeah. Okay. So January 7th is open and</p> <p>11 6th. Okay, but do you have a conflict for the 6th? Ms.</p> <p>12 Tanabe? So 7th at 10. Does that work for everybody?</p> <p>13 MS. STANLEY: And this is confirming that the</p> <p>14 Capital Credit Union Pro Mark pretrial for 10 o'clock on the</p> <p>15 7th was canceled.</p> <p>16 MS. TANABE: Right.</p> <p>17 MS. STANLEY: Like we did that yesterday.</p> <p>18 MS. TANABE: Yes.</p> <p>19 MS. STANLEY: Yes. Take it off mine.</p> <p>20 MR. HUSHKA: I know this hasn't gone out yet.</p> <p>21 THE COURT: Yes, you're right.</p> <p>22 MS. TANABE: You're right.</p> <p>23 THE COURT: Yes, you are right. Because it's that</p> <p>24 --</p> <p>25 MS. TANABE:</p>

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<p>1 THE COURT: Okay, good. Just trying to keep up</p> <p>2 with all these things. I'm going to schedule the hearing on</p> <p>3 the amended disclosure statement for January 7th at 10:00.</p> <p>4 MR. VERSTANDIG: Thank you, Your Honor.</p> <p>5 THE COURT: Okay, great. Then I think we can</p> <p>6 proceed with the cross-examination.</p> <p>7 I will remind you -- sorry, I'll remind you that</p> <p>8 you remain under oath.</p> <p>9 All right. You may proceed, Mr. VerStandig.</p> <p>10 MR. VERSTANDIG: Thank you, Your Honor.</p> <p>11 CROSS-EXAMINATION OF DANIELLE HARLESS</p> <p>12 BY MR. VERSTANDIG:</p> <p>13 Q Ms. Harless, during your direct examination, do you</p> <p>14 remember testifying that the permanent financing for The</p> <p>15 Ruins project was supposed to be at a variable interest</p> <p>16 rate?</p> <p>17 A It stated fixed rate at Wall Street Journal, which is</p> <p>18 typically tied to variable. So if I misspoke, because</p> <p>19 typically Wall Street Journal is tied to variable rate.</p> <p>20 MR. VERSTANDIG: So Madam Clark, could we pull up</p> <p>21 141, Exhibit 14, which is the term sheet. Thank you.</p> <p>22 BY MR. VERSTANDIG:</p> <p>23 Q Ms. Harless, under the permanent phase, you see where</p> <p>24 it says rate 10 year fixed rate.</p> <p>25 A Yes.</p>	<p>1 A No, not necessarily. And this is just coming from a</p> <p>2 commercial banker perspective, where and when I made the</p> <p>3 statement of payment streams, you're making the assumption</p> <p>4 that all amortizations are a straight level amortization.</p> <p>5 We have the ability as a bank to create payment streams</p> <p>6 where the amortization isn't on a straight level. It can</p> <p>7 occur front loaded or backloaded or so. I mean, when I look</p> <p>8 at the term amortization, I see flexibility in that, but</p> <p>9 it's done. The loan is paid off in 20 years.</p> <p>10 Q Okay. So what you're saying is that something can be</p> <p>11 amortized with fewer payments up front and then larger</p> <p>12 payments beginning down the line, Correct?</p> <p>13 A Correct.</p> <p>14 Q Thank you.</p> <p>15 MR. VERSTANDIG: And Madam Clark, could we please</p> <p>16 go to Docket Entry 177? And I'm going to ask you, once</p> <p>17 we're there, to go to Paragraph Number 14, please. Well, I</p> <p>18 guess we'll start on the first page.</p> <p>19 BY MR. VERSTANDIG:</p> <p>20 Q Ms. Harless, while not in evidence, this is a</p> <p>21 declaration that you executed, correct?</p> <p>22 A Yes.</p> <p>23 Q Okay, and could we please go to paragraph 14. Now?</p> <p>24 Here, you wrote that in total, \$7,170,015.08 of Ruins notes.</p> <p>25 Loan proceeds were ultimately transferred into the FCCU</p>
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<p>1 Q Okay. That would mean a fixed interest rate, not a</p> <p>2 variable interest rate. That would change during that 10</p> <p>3 year period, correct?</p> <p>4 A Correct. It would have been a 10-year fixed rate over</p> <p>5 a term of 10 years, amortized over 20 years. So when I said</p> <p>6 variable rate, it's a software selection for the tools that</p> <p>7 we use. So if we reference Wall Street Journal prime, it's</p> <p>8 a variable product within our software. So it's a fixed</p> <p>9 rate. That makes sense. That would be --</p> <p>10 Q I'm sorry, I did not mean to interrupt you.</p> <p>11 A I'm done.</p> <p>12 Q Okay, just for clarity, I think everyone knows what a</p> <p>13 fixed rate is, but that means that the first month's payment</p> <p>14 would be the same as the 45th month's payment without regard</p> <p>15 to what fluctuation there might be in interest rates between</p> <p>16 those dates.</p> <p>17 A Typically, yes, but not always, because I can. As a</p> <p>18 banker, I can schedule. I can have different payment</p> <p>19 streams. So yes, but no.</p> <p>20 Q Well, if it's amortized over 20 years, can we agree</p> <p>21 that means that there is supposed to be an even monthly</p> <p>22 payment every month for. I realize the term is shorter, but</p> <p>23 the amortization would provide an even monthly payment every</p> <p>24 month for at least 19 years and 11 months. And possibly a</p> <p>25 few cents off in the final payment?</p>	<p>1 Craig accounts during the period of March 11, 2022 to</p> <p>2 February 17, 2023.</p> <p>3 A Do you see that under 14? Yes.</p> <p>4 Q Okay. Are you saying that those are monies that were</p> <p>5 loaned by the bank?</p> <p>6 A Well, yes, because it came from The Ruins notes.</p> <p>7 Q Okay, and are you saying those are monies that were</p> <p>8 loaned by the bank that were not then used in connection</p> <p>9 with The Ruins project?</p> <p>10 A No. That is what went to the FCC accounts.</p> <p>11 Q I'm not trying to be a smart-aleck about this, but the</p> <p>12 way you said. No, I honestly, I don't know if you meant</p> <p>13 that you agree with me. They weren't used on The Ruins</p> <p>14 project, or if you were disagreeing with my premise.</p> <p>15 A The \$7.1 million ultimately ended up in the FCCU Craig</p> <p>16 accounts. They came from loan funds.</p> <p>17 Q And are you saying that that means they weren't used on</p> <p>18 The Ruins project?</p> <p>19 A No.</p> <p>20 Q In reality, money in the Kreg accounts would have been</p> <p>21 used on The Ruins project, wouldn't it?</p> <p>22 A Some of it, yes.</p> <p>23 Q Okay. How much of it?</p> <p>24 A How much of what?</p> <p>25 Q How much of it was used on The Ruins project?</p>

<p style="text-align: right;">Page 126</p> <p>1 MS. TANABE: Can I pause? Objection. I thought  2 we had said this was not in evidence. And I'm just confused  3 as to what we're doing right now or why.  4 MR. VERSTANDIG: So the exhibits to this are in  5 evidence that contained the sums, and the sums would add up  6 to \$7.1 million. And the witnesses testimony was that she  7 was the one who went through everything that led to those  8 compilations. And I'm trying to understand if the  9 testimonies of those Monies really weren't spent on The  10 Ruins project, or if the testimony is simply that they were  11 spent on The Ruins project, they just went through an  12 intermediary bank account along the way.  13 MS. TANABE: And I'm going to object that you're  14 calling for speculation. I think she's only testified that  15 the money was transferred out of The Ruins account into  16 other accounts and that that was irregular. She didn't  17 testify that she knows for sure where every dollar was spent  18 or not spent. And I think it's mischaracterizing her  19 testimony to say that she said in extreme that it was all  20 used for the project or none used for the project. That's  21 mischaracterizing her testimony.  22 MR. VERSTANDIG: Your Honor, I think the  23 impression one would naturally take from this morning's  24 testimony was that large amounts of money were spent on  25 things other than the project. Now, if the bank's</p>	<p style="text-align: right;">Page 128</p> <p>1 actually knowledgeable. She's certainly welcome to testify  2 to that.  3 THE COURT: The objection is overruled. And I  4 think. I don't even know if the witness has answered that  5 particular question yet. Do you know what the question is  6 anymore? Okay.  7 MR. VERSTANDIG: I don't do that.  8 THE COURT: So let's start all over.  9 MR. VERSTANDIG: Thank you.  10 BY MR. VERSTANDIG:  11 Q Ms. Harless, how much of the \$7.1 million in change  12 actually was spent on The Ruins project.  13 A So I think. And I'm just trying to wrap my head around  14 your question, so that 7.1 million is the amount that was  15 transferred to FCCU Craig account. So transferred, meaning  16 it could have gone into The Ruins checking account and then  17 wrote a check back to FCCU.  18 So some of the funds then logically would have had to  19 come out of The Ruins checking account. So my exercise was  20 looking for money that didn't go where it was supposed to go  21 with the draws in the time period of which -- of the  22 applicable period within that draw period. So I can't  23 really answer your question because it's -- you're  24 suggesting that the 7 million. I can't answer it in the  25 form that it's in.</p>
<p style="text-align: right;">Page 127</p> <p>1 acknowledging that that's not the characterization we should  2 have taken from this morning. And then in reality, large  3 amounts of money may have gone through another bank account  4 but were spent on the project, that's one thing. But unless  5 the bank's going to acknowledge that, I'd like the witness  6 to clarify as the person who went through all the documents  7 and compiled the records that are in evidence.  8 THE COURT: So reaching back to the question, the  9 original objection related to the relevance. I think if  10 it's relevance that the objection is related to, then that's  11 overruled. If there's another objection, I missed it. Ms.  12 Tanabe, is there?  13 MS. TANABE: It states that it was. That it  14 called for speculation, that she's only testified that she  15 knows for certain that the money was transferred into  16 multiple accounts and that that's irregular. But she didn't  17 testify that she knows where every dollar was spent. And so  18 I think he's creating confusion about what she testified.  19 MR. VERSTANDIG: The witnesses testimony, coupled  20 with the exhibits she testified to preparing, was that the  21 money was transferred, but some of it was spent on, I  22 believe an airplane was part of the testimony, but some of  23 it went to banks that have no relation to the project, et  24 cetera. The witness laid her own foundation for knowledge  25 about the money's comprising the sum. Now, she's not</p>	<p style="text-align: right;">Page 129</p> <p>1 Q Just to be clear, of the \$7.1 million that you  2 testified about leaving The Ruins bank account, you don't  3 know how much of that was ultimately spent on The Ruins  4 project.  5 A Well, if 11,090,000, assuming the documentation that  6 was in the file for the draw request is all correct. So  7 assuming the money as presented that way, we disbursed  8 11,090,000. If 4,300,000 change was not applied to of those  9 funds during that time period, that would leave.  10 676,790,000 in loan funds that theoretically of our loan  11 funds were used for The Ruins project.  12 So that 7.1 million is referring to funds transferred  13 to the FCCU Craig accounts. It's not quantifying in total  14 the amount spent to contractors or not spent to contractors  15 for ineligible uses.  16 Q Okay. So of the \$7 million in question, you believe  17 more than 6 million of it was spent to contractors for The  18 Ruins project.  19 A The property is partially built, so I believe some of  20 it was spent on the property. What amount was spent on the  21 property is uncertain because of the documentation that we  22 received through direct from the customer. And the  23 subpoenas. They don't match. So what's reality?  24 Q Well, let's talk about that for a moment, because you  25 did testify about the volume of documents earlier today,</p>

<p style="text-align: right;">Page 130</p> <p>1 right?</p> <p>2 A Say that again.</p> <p>3 Q I believe you testified earlier this morning about the</p> <p>4 volume of documents produced more.</p> <p>5 A Than 20,000 pages, I believe, from FCCU. Correct.</p> <p>6 Q Okay, and subpoenas were also issued to subcontractors,</p> <p>7 correct?</p> <p>8 A Yes.</p> <p>9 Q So putting aside what I think you referred to as arts</p> <p>10 and crafts, which I'm guessing was a reference to my</p> <p>11 client's documentation, the bank has obtained financial</p> <p>12 records from, I think you said 24 subpoena counterparties.</p> <p>13 A Twenty-four. It was 24 FCCU checking account</p> <p>14 statements that I reviewed.</p> <p>15 Q Okay, and how many subcontractors did the bank cause to</p> <p>16 be subpoenaed?</p> <p>17 A I don't know that offhand.</p> <p>18 Q Did you review those records?</p> <p>19 A I did not review those records before this hearing, no.</p> <p>20 Q Who is it that reviewed the subcontractor records to</p> <p>21 ascertain whether or not they matched what the debtor</p> <p>22 submitted?</p> <p>23 A Charles Aarestad.</p> <p>24 Q Okay. Can we agree that between the subcontractor</p> <p>25 records and the financial records, the bank could ascertain</p>	<p style="text-align: right;">Page 132</p> <p>1 between \$225,000 and \$250,000 per unit.</p> <p>2 A I believe so, yes.</p> <p>3 Q Now let's talk about what you did go through. The</p> <p>4 reports that you prepared are based on all of the expenses</p> <p>5 of Craig Properties and Craig Development, right?</p> <p>6 A Yes. Between two time periods, which would have been</p> <p>7 during the draw time periods.</p> <p>8 Q Okay, and Craig Properties and Craig Development had</p> <p>9 economic inflows other than transfers from The Ruins,</p> <p>10 correct?</p> <p>11 A They would have, yes.</p> <p>12 Q Okay. So some of the expenses could have been paid</p> <p>13 with monies from non-Ruins-related economic inflows, right?</p> <p>14 A Correct.</p> <p>15 Q And let's use an example. Red River State Bank</p> <p>16 actually loaned money for the construction of the Minnesota</p> <p>17 lake house, correct?</p> <p>18 A There was a \$2 million loan, yes.</p> <p>19 Q Okay. So some of the inflows, either directly or</p> <p>20 through intermediaries could have been from those funds.</p> <p>21 Right.</p> <p>22 A There would be documentation showing if the loans were</p> <p>23 dispersed from those loans into those accounts. I don't</p> <p>24 know offhand if that's correct. I looked at a time period.</p> <p>25 That the draws were done underneath.</p>
<p style="text-align: right;">Page 131</p> <p>1 what was spent on the project?</p> <p>2 A State it one more time.</p> <p>3 Q Could we agree that between the subcontractor records</p> <p>4 and the bank records, the bank could ascertain what was</p> <p>5 spent on the project?</p> <p>6 A No.</p> <p>7 Q Why not?</p> <p>8 A Check in an EP when I'm reviewing the account</p> <p>9 transcripts?</p> <p>10 Q How?</p> <p>11 A Let's just say for Limoges. How do I know the Limoges</p> <p>12 invoice? How do the checking accounts -- the transcript</p> <p>13 doesn't detail which project it went to or. I don't know</p> <p>14 which project.</p> <p>15 Q Limoges sent the invoice pursuant to the subpoena</p> <p>16 indicating the project and even the address where either</p> <p>17 goods were delivered or services were performed. Right.</p> <p>18 A I did not. For my understanding of the hearing today</p> <p>19 was from a feasibility. What you're talking about is</p> <p>20 looking backwards and I was looking forwards. So I didn't</p> <p>21 review that is what I'm saying. To compare the two.</p> <p>22 Q Okay. Were you present in court? To be honest, it's a</p> <p>23 blur. I want to say it was yesterday, but it may have been</p> <p>24 last week when the bank's expert testified that the cost of</p> <p>25 construction for The Ruins to date would be somewhere</p>	<p style="text-align: right;">Page 133</p> <p>1 Q I think I just want to be clear that these charts that</p> <p>2 you prepared, that goes with the documents behind your</p> <p>3 affidavit.</p> <p>4 MR. VERSTANDIG: So, Madam Clerk, we look at 177-</p> <p>5 1, which I'm guessing means. Just scroll down a little bit.</p> <p>6 One more page, please. Thank you. I picked the worst</p> <p>7 possible anecdote. This is the one chart that is not</p> <p>8 helpful to the point I'm trying to make. I'm sorry, could</p> <p>9 we please look at. I'll give you a page number in a second.</p> <p>10 Madam Clerk, I'm sorry, could we look at PDF Page 28.</p> <p>11 Meaning page instead of 34. So unlike Ms. Tanabe, I'm going</p> <p>12 off the PDF numbers. I'm sorry. Perfect.</p> <p>13 BY MR. VERSTANDIG:</p> <p>14 Q So this shows transfers from Craig Development LLC to</p> <p>15 Jesse Craig, correct?</p> <p>16 A Correct.</p> <p>17 Q But monies came into Craig Development LLC from sources</p> <p>18 other than The Ruins bank account during the impacted time</p> <p>19 period.</p> <p>20 A Correct. But not of the sizable amounts that the draw</p> <p>21 requests. And this was a discussion, you know, because</p> <p>22 there's assumptions that go into any kind of an analysis.</p> <p>23 When does the time period end? When are the funds fully</p> <p>24 extinguished? The account was overdrawn, so that made it</p> <p>25 really crystal clear as to the funds were the loan funds</p>



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<p>1 that we loaned were fully extinguished in that time period.</p> <p>2 Because you can't use future revenues to repay something</p> <p>3 paid, not paid during. From the draws that should have been</p> <p>4 paid. Does that make sense? So like -- so we were</p> <p>5 comfortable with the analysis when we did it that we</p> <p>6 adequately compensated for that. Because by that</p> <p>7 assumption, if he had income coming in and he still overdrew</p> <p>8 the account, that money's gone and you'd have to have future</p> <p>9 revenues to compensate back.</p> <p>10 Q Now, Mr. Craig's entitled to certain fees as the</p> <p>11 general contractor and project manager, correct?</p> <p>12 A For The Ruins project.</p> <p>13 Q Yes.</p> <p>14 A Yes.</p> <p>15 Q Okay. Does the bank have any way of knowing which</p> <p>16 monies that went into Craig Development LLC were earmarked</p> <p>17 as being for those fees?</p> <p>18 A I believe in his draw requests. I'm going off memory</p> <p>19 here because this is a long time ago. He would have stated</p> <p>20 on his draw requests which ones are for a member draws.</p> <p>21 Q And he did state that some of them are for his fees,</p> <p>22 correct?</p> <p>23 A Right. But that -- I believe they were at the</p> <p>24 beginning, not at the end. I'm going off memory here. So</p> <p>25 it would be not logical to have. I wouldn't -- for just --</p>	<p>1 documentation that isn't reality, there's no way I can know</p> <p>2 for certain.</p> <p>3 Q Respectfully, I don't think that's what I asked. I</p> <p>4 asked if it's reflected on the chart you prepared, Ms.</p> <p>5 Harless?</p> <p>6 A What was the question?</p> <p>7 Q I think I'm just trying to ascertain whether or not</p> <p>8 that's reflected on the chart you prepared.</p> <p>9 A What's reflected?</p> <p>10 Q Any owner equity that's earmarked to Mr. Craig</p> <p>11 personally.</p> <p>12 A Unless he would have put some sort of a -- there's no</p> <p>13 way we would know that. No. Other than looking at the draw</p> <p>14 request, and then there'd be a connection there.</p> <p>15 MR. VERSTANDIG: Madam Clerk, could we please go</p> <p>16 to PDF Page 462? Thank you. We're off by seven, and I'm</p> <p>17 not sure how that is. I think I'm looking at the same</p> <p>18 document on my computer.</p> <p>19 BY MR. VERSTANDIG:</p> <p>20 Q Ms. Harless, do you see the fourth line down? It says</p> <p>21 discovery.</p> <p>22 A Yes.</p> <p>23 Q And testified during the direct examination that you</p> <p>24 saw transfers to Discover and Capital One, correct?</p> <p>25 A Correct.</p>
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<p>1 in my experience I wouldn't -- it is not normal to see a</p> <p>2 developer take income like laid out here as their developer</p> <p>3 fee in small minute things. It would be in lump sums.</p> <p>4 Sorry.</p> <p>5 Q Don't be sorry. And I didn't mean to speak over you.</p> <p>6 I'm sorry. And Zoom does make it a little strange. You're</p> <p>7 saying it would not be usual in your experience for a</p> <p>8 developer to get paid during the life of the project?</p> <p>9 A No, I'm saying in small. In small increments, like</p> <p>10 this.</p> <p>11 Q Okay, but these are the transfers from Craig</p> <p>12 development to Mr. Craig once the sums are in the Craig</p> <p>13 Development account. My question was, you have no way of</p> <p>14 knowing what's been earmarked as owner equity and what's</p> <p>15 been earmarked as just being general business funds.</p> <p>16 Q Right.</p> <p>17 A I could go back to the draws, and then assuming that</p> <p>18 the draws match the checks, that would be a way to cross</p> <p>19 reference. But if his submitted draws, the accounting</p> <p>20 doesn't match what he actually submitted. There's no way</p> <p>21 for me to know because they don't match. So I would have no</p> <p>22 idea if his second set of accounting is what you suggest.</p> <p>23 Q But either way, it's certainly not reflected on the</p> <p>24 charts appended to your affidavit.</p> <p>25 A When somebody doesn't -- when somebody submits</p>	<p>1 Q And I believe you indicated on direct that you</p> <p>2 understand those to be credit card payments, correct?</p> <p>3 A Correct.</p> <p>4 Q Do you know if those credit cards were used to purchase</p> <p>5 materials for The Ruins project?</p> <p>6 A I do not know that for sure.</p> <p>7 Q So it's possible that part or all of the credit card</p> <p>8 payments were reimbursement or the coverage of expenses for</p> <p>9 The Ruins project?</p> <p>10 Q Could be.</p> <p>11 MR. VERSTANDIG: And Madam Clerk, we could go back</p> <p>12 to PDF Page 4, please. Thank you.</p> <p>13 BY MR. VERSTANDIG:</p> <p>14 Q Ms. Harless, here you noted that Jesse Craig received</p> <p>15 at least \$191,513.05 between January of '22, and March of</p> <p>16 '23. Do you see that?</p> <p>17 A Yes.</p> <p>18 Q And do you believe that's consistent with the</p> <p>19 compensation he was entitled to take as general contractor</p> <p>20 and project manager?</p> <p>21 A Can you ask that question in a different way?</p> <p>22 Q Do you believe that is in line with the amount of</p> <p>23 compensation he was entitled to take as general contractor</p> <p>24 and project manager?</p> <p>25 MS. TANABE: Objection. You're asking her to</p>

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<p>1 speculate. It's about things like what a credit card was 2 used for or when he did or didn't decide to pay himself. 3 These are not things that she can know for certain. 4 THE COURT: That's the point. That's the point of 5 the cross-examination. So overruled. 6 THE WITNESS: Jesse Craig is owed -- he develops 7 his own in The Ruins case. He developed his own property. 8 He's the developer, and he owns it. In the end, he's the 9 single member. In my experience, your question is hard to 10 answer because every loan situation is different. In times 11 where there's a lot of volatility, like, let's just say, 12 inflation, equity, or the ownership would come in and do 13 things like, I'm going to build the property for myself for 14 no fee because I'm going to own it. In the end, that's not 15 unheard of. And then there's other situations where 16 somebody would pay themselves. So since he's an insider, I 17 can't say what's normal, what's not, for if that's a 18 reasonable amount or not, because I've seen a little bit of 19 everything, so I can't really answer that in a straight 20 answer. 21 BY MR. VERSTANDIG: 22 Q I believe you also testified this morning about 23 transfers to Jordan Horn. Do you remember that? 24 A Yes. 25 Q And I believe you testified that Ms. Horner is Mr.</p>	<p>1 happened in that condensed time period. 2 MR. VERSTANDIG: Madam Clerk, could we please go 3 to Docket Entry 86-1? Thank you. 4 BY MR. VERSTANDIG: 5 Q I believe you testified about this document earlier 6 this morning. Do you remember that? 7 A Yes. 8 Q This is a promissory note that I believe you referred 9 to as the third Ruins note. Does that sound familiar? 10 Q Correct. 11 Q And you testified this morning that in addition to The 12 Ruins LLC, the borrowers included Mr. Craig individually. 13 Craig Development, Craig holdings and Craig Properties. 14 Right. 15 A Say that one more time. 16 Q Sure. You testified this morning that in addition to 17 The Ruins LLC, the borrowers on this note include Mr. Craig, 18 Craig Development, Craig holdings and Craig Properties. 19 Q Correct? 20 A Correct. 21 Q Let me start with an easy question. I think why did 22 the bank insist on lending to one, two, three, four entities 23 or three entities in a person in addition to the debtor as 24 opposed to simply asking for guarantees? 25 A I am not a legal person, but from a bank's perspective</p>
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<p>1 Craig's daughter. Do you remember that? 2 A That is my understanding. She is, yes. 3 Q Okay. Do you know if Ms. Horner is an employee of 4 Craig Properties? 5 A Sorry, I didn't hear the full. You stepped on 6 yourself. 7 Q Oh, I'm sorry. Do you know if Ms. Horner is an 8 employee of Craig Properties? 9 A I believe she is an employee and owner of Craig 10 Properties. 11 Q Were you able to ascertain which of the transfers to 12 her were ordinary payroll payments? 13 A No, but that still goes back to my statement of the 14 draws. The time period. 15 Q I think I'm just asking if the transfers to Ms. Horner 16 were in line with being payroll payments or not. 17 A I would have no idea if they're payroll payments. If 18 there's a notation on a check notating that it was for 19 payroll, then that would be the only way I would know. 20 Q You would have included it on your list regardless, 21 wouldn't you have? 22 A I would have included it because it was during the time 23 period of the draws and at the end of the draw time period, 24 the accounts were overdrawn so the funds were fully 25 extinguished. So that's why we included it, because it</p>	<p>1 for creating documentation for how we intended we the on the 2 disbursement and disbursement and authorization statement 3 that supplements the promissory note, they all have to sign. 4 So it's a way to get the. Documents done in a way that 5 we're comfortable with, if that makes any sense. 6 Q Does the bank also use guarantees or does it always 7 just list the obligors as borrowers? 8 A It depends on the situation we've done. It's not 9 unusual to have multiple borrowers. 10 Q Okay. But the bank also had Mr. Craig guarantee a 11 large amount of the debt on the generations and Parkside 12 matters to end up. 13 A He would have, I believe. Yes. 14 Q Okay. Now, at the time this loan was made, so February 15 17, 2023, the bank held a lien on Mr. Craig's lake home in 16 Minnesota, correct? 17 A I can't speak. I can't speak to that. I can't say yes 18 or no for sure without I would want to reference. 19 Q Let's try separately then. Do you know if the bank has 20 ever had a lien on Mr. Craig's Lake home in Minnesota? 21 A Yes. 22 Q Do you know if the banks ever had a lien on any car 23 owned by Mr. Craig? 24 A I don't know the entity name, but I believe there was a 25 Tahoe or some other type of. Four wheel drive theater</p>



<p style="text-align: right;">Page 142</p> <p>1 cycle.</p> <p>2 Q I'm sorry, I didn't mean to cut you off. And I heard</p> <p>3 four wheel drive after I spoke.</p> <p>4 Q Yep.</p> <p>5 Q What about a motorcycle owned by Mr. Craig?</p> <p>6 A Whether we loan directly on that for like the purchase</p> <p>7 of that or just.</p> <p>8 Q Asking if the bank had a lien on it?</p> <p>9 A I believe the bank has a lien on it, but I don't recall</p> <p>10 which loan it's attached to.</p> <p>11 Q And the skid steer?</p> <p>12 A I think there was two skid steers at play. Don't quote</p> <p>13 me on that. So one was. One skid steer was financed with</p> <p>14 The Ruins and traded, then traded according to Jesse's</p> <p>15 testimony. And I think there was a separate skid steer.</p> <p>16 But you're asking questions that are backward looking for</p> <p>17 some things that are not part of the. What my preparation</p> <p>18 went into today.</p> <p>19 Q Okay. Are you familiar with an entity called 1023</p> <p>20 Flats?</p> <p>21 A Yes.</p> <p>22 Q And what is that entity?</p> <p>23 A It's a realist. What is the entity? Yes, it's an LLC</p> <p>24 based out of North Dakota.</p> <p>25 Q Do you know what purpose it serves?</p>	<p style="text-align: right;">Page 144</p> <p>1 Q And is it a construction project?</p> <p>2 A No, it's a finished project. So it's a finished multi</p> <p>3 family.</p> <p>4 Q It sounded like you were going to say something more</p> <p>5 and I didn't want to cut you off. You said a finished</p> <p>6 multifamily.</p> <p>7 A A finished multi family real estate.</p> <p>8 Q And it was constructed by Mr. Craig, correct?</p> <p>9 A I think the answer my understanding is yes, but I</p> <p>10 wasn't involved, so I don't know.</p> <p>11 Q Do you know if Red River State Bank did the financing</p> <p>12 on that project.</p> <p>13 A Red River State Bank has a loan a permanent loan. Red</p> <p>14 River State Bank didn't -- my understanding, Red River State</p> <p>15 Bank didn't do the construction. Red River State Bank has</p> <p>16 the permanent financing loan on that project, on that real</p> <p>17 estate.</p> <p>18 Q Okay, and to the best of your knowledge, is Mr. Craig</p> <p>19 involved in the operation of that real estate or the</p> <p>20 servicing of that loan?</p> <p>21 A From what? I need a more specific question.</p> <p>22 Q Sure. To the best of your knowledge, does Mr. Craig</p> <p>23 have anything whatsoever to do with 1023 flats?</p> <p>24 A I believe he is the member owner.</p> <p>25 Q Thank you. Now, shifting a little bit.</p>
<p style="text-align: right;">Page 143</p> <p>1 A It's a real estate holding company.</p> <p>2 Q Do you know what real estate it holds?</p> <p>3 A 1023.</p> <p>4 MS. TANABE: Objection. Okay. Two objections. I</p> <p>5 think this is way outside the scope of direct, and I just</p> <p>6 kind of struggling to understand the relevance as well.</p> <p>7 MR. VERSTANDIG: Direct covered a putatively vast</p> <p>8 swath of financial transactions. We've learned that just</p> <p>9 because some of those transactions went away from Ruins</p> <p>10 doesn't mean they weren't actually spent on Ruins.</p> <p>11 I'm now trying to establish that the bank held</p> <p>12 liens on a vast number of assets owned or controlled by Mr.</p> <p>13 Craig. And that by necessary extension of that, to the</p> <p>14 extent a that money's removing through these accounts, they</p> <p>15 could have been bank monies on other loans, which would be</p> <p>16 ironic to say the least. But two, that to the extent they</p> <p>17 were used on assets upon which the bank holds a lien, such</p> <p>18 utilization would not have been to the detriment of the</p> <p>19 bank.</p> <p>20 THE COURT: The objection is overruled.</p> <p>21 BY MR. VERSTANDIG:</p> <p>22 Q Ms. Harless, what property does 1023 Flats own?</p> <p>23 A It's called 1023 Flats, I believe.</p> <p>24 Q Okay. Do you know what state it's in?</p> <p>25 A North Dakota.</p>	<p style="text-align: right;">Page 145</p> <p>1 MR. VERSTANDIG: And Madam Clark, we can close</p> <p>2 that exhibit for at least the time being.</p> <p>3 BY MR. VERSTANDIG:</p> <p>4 Q The first monies used to construct Ruins were funded by</p> <p>5 the TIF, correct?</p> <p>6 A Correct.</p> <p>7 Q And I believe you testified this morning that the bank</p> <p>8 owns either part of the TIF or an assignment of funds from</p> <p>9 the TIF.</p> <p>10 A Correct.</p> <p>11 Q Okay. Why hasn't the bank filed a proof of claim in</p> <p>12 this case based on its ownership of part of the TIF or the</p> <p>13 funds therefrom?</p> <p>14 A Are you asking me a legal opinion.</p> <p>15 Q Asking if you know why the bank hasn't filed a proof of</p> <p>16 claim?</p> <p>17 MS. TANABE: Objection. I think it's two things.</p> <p>18 I mean, it's asking her to share the advice of counsel and</p> <p>19 it's asking her. We've heard repeatedly that she's a lay</p> <p>20 person not qualified to speculate about legal matters within</p> <p>21 the bankruptcy plan, et cetera. And so I think the same</p> <p>22 holds here as well. She testified that she doesn't think</p> <p>23 the estate owns the asset and that she doesn't think it's</p> <p>24 part of the bankruptcy case. So as well I just testify it's</p> <p>25 asked and answered.</p>

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<p>1 MR. VERSTANDIG: Your Honor, I think I would</p> <p>2 respond as follows. One, if her response is on the advice</p> <p>3 of counsel, I'm most certainly not entitled to ask the</p> <p>4 follow up question. It goes to the size of the bank's</p> <p>5 claim, the nature and the composition of the bank's claim</p> <p>6 and the interests of the bank juxtaposed to those of other</p> <p>7 secured and unsecured creditors. In this case, it also goes</p> <p>8 to the generalized manner in which the bank has accurately</p> <p>9 or inaccurately accounted for the inflow and outflow of</p> <p>10 monies from itself to the project and for the betterment of</p> <p>11 the project.</p> <p>12 MS. TANABE: And Your Honor, they've already</p> <p>13 stipulated to the amount of our claim. They've stipulated</p> <p>14 to the validity of our claim history. The burden was</p> <p>15 shifted on us to demonstrate the value of our claim. They</p> <p>16 stipulated to that. Without carrying their burden, I think</p> <p>17 they shouldn't be allowed to reopen and Rehash that issue</p> <p>18 now.</p> <p>19 THE COURT: Yeah, that's a pretty compelling</p> <p>20 argument, Mr. VerStandig. Why would you need to know about</p> <p>21 how is that related to the issues for this hearing?</p> <p>22 MR. VERSTANDIG: Your Honor, I think one of the</p> <p>23 things we're going to touch upon is the best interests of</p> <p>24 creditors and the unusual circumstances. We've been very</p> <p>25 upfront about that. And generally speaking, creditors are</p>	<p>1 with counsel, why did the bank not file a proof of claim for</p> <p>2 the TIF monies it owns or is due?</p> <p>3 Q And I'm going to object because I think this is going</p> <p>4 to trip up my client. She filed the proof of claim with the</p> <p>5 advice of counsel, and so if she wants to assert privilege,</p> <p>6 she should do so now. She's not obligated to answer the</p> <p>7 question in some way that defeats that privilege.</p> <p>8 MS. TANABE: Your Honor, I think this narrative is</p> <p>9 problematic coming from counsel, and we're getting very</p> <p>10 close to coaching the witness. Proof of claim form, by</p> <p>11 design, is something that was created to be completed by</p> <p>12 laypersons. There are rules in this court and elsewhere</p> <p>13 that even allow unrepresented corporate entities to file a</p> <p>14 proof of claim without the assistance of counsel.</p> <p>15 To the extent a decision was made to file or not</p> <p>16 file a proof of claim, the witness is competent to answer</p> <p>17 it. Now, if the answer is that was not done on the OSI</p> <p>18 counsel, so be it. That's the answer. But it awfully seems</p> <p>19 like the objections aimed at coaching the witness into</p> <p>20 Invoking when that wouldn't otherwise or necessarily be the</p> <p>21 situation.</p> <p>22 MR. VERSTANDIG: And this returns to the point</p> <p>23 that we, with the advice of counsel, they filed the proof of</p> <p>24 claim and this has already been stipulated to. It seems</p> <p>25 like he's trying to trip the client up into saying something</p>
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<p>1 going to be divided into two universes. Red River State</p> <p>2 Bank and everyone else. We've heard from some of the</p> <p>3 everyone else, including Mr. Feis's client, to the extent</p> <p>4 the bank is now saying that it owns part of the claim that's</p> <p>5 being advanced by Mr. Feist's client, which perhaps</p> <p>6 coincidentally, perhaps not, is the only other entity that</p> <p>7 appears to be favoring conversion. That would seem to weigh</p> <p>8 upon what are in the best interests of creditors writ large</p> <p>9 and whether or not there are unusual circumstances. Keeping</p> <p>10 in mind Mr. Klobucar's comments about potential implication</p> <p>11 of the doctrine of marshaling as well.</p> <p>12 MS. TANABE: Okay. So far, outside the scope of</p> <p>13 direct.</p> <p>14 THE COURT: Well, no, we heard a lot about the TIF</p> <p>15 on direct from and other witnesses. I'm not sure that the</p> <p>16 complete relevance is clear to me right now. But relevance</p> <p>17 is a broad concept, so the witness may answer to the extent</p> <p>18 that you know and to the extent that it doesn't involve any</p> <p>19 conversations that you've had with your lawyers.</p> <p>20 MR. VERSTANDIG: Your Honor, may I ask that the</p> <p>21 question be repeated so that she doesn't inadvertently</p> <p>22 answer the wrong question?</p> <p>23 THE COURT: Yes, because --</p> <p>24 BY MR. VERSTANDIG:</p> <p>25 Q Ms. Harless, without telling me anything you discussed</p>	<p>1 she doesn't. It's just hashing and rehashing something the</p> <p>2 debtor has already stipulated to.</p> <p>3 THE COURT: With the limitations I set before. In</p> <p>4 other words, without revealing any privileged information.</p> <p>5 You may answer the question.</p> <p>6 THE WITNESS: And the question was just to restate</p> <p>7 because why didn't the bank submit a proof of claim for the</p> <p>8 580,000?</p> <p>9 THE COURT: Yes. Well, for the TIF. I don't know</p> <p>10 how much it.</p> <p>11 BY MR. VERSTANDIG:</p> <p>12 Q Precisely.</p> <p>13 A That is for the -- yeah. I think that we're talking</p> <p>14 about the same thing. I'm a banker. Everything that we do</p> <p>15 is very accurate, very specific and we use specialists like</p> <p>16 our attorneys. And so I wouldn't make a decision without</p> <p>17 having counsel from my attorneys on that.</p> <p>18 So I've put no thought into that question until you</p> <p>19 just asked it. And now it's very difficult to. I don't</p> <p>20 think I can answer for. I mean, I don't know the date that</p> <p>21 we filed our proof of claim, but it was months and months</p> <p>22 and months ago. What I know now, what I know then, I can't</p> <p>23 answer that because I would have relied on my attorneys for</p> <p>24 whatever they would have suggested.</p> <p>25 THE COURT: New question.</p>

<p style="text-align: right;">Page 150</p> <p>1 BY MR. VERSTANDIG:</p> <p>2 Q We'll shift. Ms. Harless, when did you last personally</p> <p>3 witness The Ruins building in person? That was redundant,</p> <p>4 by the way, and I apologize.</p> <p>5 A I've seen it multiple times.</p> <p>6 Q When was the most recent time?</p> <p>7 A It was really cold and I was wearing my black boots</p> <p>8 with my winter coat. So it's over a year ago, but it would</p> <p>9 have been either in the spring or the fall. I can't recall.</p> <p>10 So that would have had to been. It wasn't during. We</p> <p>11 haven't. I've not been on site during the bankruptcy time</p> <p>12 period, so I'm guessing September of '24. Don't quote me on</p> <p>13 that type of -- I don't need to. I don't need to know that</p> <p>14 from a documentation. It doesn't need space in my brain.</p> <p>15 Q Ms. Harless, to the best of your knowledge of other</p> <p>16 agents of the bank viewed the property during the</p> <p>17 bankruptcy.</p> <p>18 A During the bankruptcy period?</p> <p>19 Q Yes.</p> <p>20 A We have visited the property outside on, you know, like</p> <p>21 public. So like on the road, you know, and walked around</p> <p>22 and viewed the property?</p> <p>23 Q Yes. Were you present in court when Mr. Luther</p> <p>24 testified yesterday?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 152</p> <p>1 Q Do you remember testifying earlier that the building's</p> <p>2 plans appear to have changed?</p> <p>3 A Material or imperial? Your voice is a little bit low,</p> <p>4 so it.</p> <p>5 Q I'm sorry, I didn't use either of those words, which</p> <p>6 concerns me. Do you remember testifying earlier that the</p> <p>7 building's plans appear to have changed.</p> <p>8 A Over the -- yes.</p> <p>9 Q Who is the banker at Red River State Bank who initially</p> <p>10 had the relationship with The Ruins?</p> <p>11 A Martin Peterson.</p> <p>12 Q Do you know if the original plans for The Ruins were</p> <p>13 emailed to Martin Peterson?</p> <p>14 A I believe they were.</p> <p>15 Q Have you been through Mr. Peterson's emails to look at</p> <p>16 the ones that were sent to Mr. Peterson?</p> <p>17 A So in a bank we have different roles and</p> <p>18 responsibilities and that wasn't part of my roles and</p> <p>19 responsibility. So I don't have firsthand knowledge of</p> <p>20 doing what? Anything that you're talking about.</p> <p>21 Q Ms. Harless, were you present for Charles Arsted's</p> <p>22 deposition in this case?</p> <p>23 A His deposition from September?</p> <p>24 Q That sounds about right. I came out and conducted, I</p> <p>25 believe, both of your depositions in a conference room at</p>
<p style="text-align: right;">Page 151</p> <p>1 Q He's the bank's appraiser, correct?</p> <p>2 A Yes.</p> <p>3 Q Do you remember him testifying to an appraisal done in</p> <p>4 or about July of 2025?</p> <p>5 Q Yes.</p> <p>6 Q Do you believe he accessed the interior of the property</p> <p>7 to do that appraisal?</p> <p>8 A I don't know how to answer that.</p> <p>9 Q Do you remember when Mr. Gehrtz testified?</p> <p>10 A Yes.</p> <p>11 Q He had photographs that were sort of time lapse</p> <p>12 photographs from the inside of the property. Do you</p> <p>13 remember that.</p> <p>14 A Time lapse from two different periods? Yes.</p> <p>15 Q Do you believe he was on the interior of the property</p> <p>16 during 2025?</p> <p>17 A It was not during 2025.</p> <p>18 Q Okay. So you're not sure if an agent of the bank has</p> <p>19 been inside the property this calendar year?</p> <p>20 A I don't believe my understanding. I do not believe</p> <p>21 anybody has been inside the building during the bankruptcy</p> <p>22 period.</p> <p>23 Q Let's talk about the building's plans. Do you remember</p> <p>24 testifying earlier that they appear to have changed?</p> <p>25 A Say that one more time.</p>	<p style="text-align: right;">Page 153</p> <p>1 the Vogel Law Firm.</p> <p>2 A Correct.</p> <p>3 Q Do you remember during his deposition Mr. Arstad</p> <p>4 indicated that Mr. Peterson's email account had been</p> <p>5 destroyed?</p> <p>6 A That's correct.</p> <p>7 Q To the best of your knowledge, has Mr. Peterson's email</p> <p>8 account ever been reconstructed or recreated?</p> <p>9 A No. When it's gone, it's gone.</p> <p>10 Q So whatever plans were sent to Mr. Peterson wouldn't be</p> <p>11 amongst the records to which the bank has access today?</p> <p>12 A Say that question one more time.</p> <p>13 Q Sure. Whatever record, whatever plans were sent to Mr.</p> <p>14 Peterson would not be amongst the records to which the bank</p> <p>15 has access today?</p> <p>16 A Not necessarily. So we use a file documentation system</p> <p>17 and. I, for instance, when I'm building my loan files.</p> <p>18 There's certain key things from an insurance coverage</p> <p>19 standpoint and making sure that I'm organized in my file. I</p> <p>20 actually drag over emails from Outlook into the customer's</p> <p>21 file as a native format. So the box might be gone, but I</p> <p>22 might either have a PDF or a native file.</p> <p>23 Q Do you know if any of Mr. Peterson's emails were</p> <p>24 dragged over into the.</p> <p>25 A System, you would have been provided what documentation</p>

<p style="text-align: right;">Page 154</p> <p>1 that we had in discovery.</p> <p>2 Q Now, you testified earlier that the bank has spent</p> <p>3 approximately \$300,000 both before and during the bankruptcy</p> <p>4 in legal fees on The Ruins matter. Do you remember that?</p> <p>5 A Yes.</p> <p>6 Q Just for clarification, this is not meant as a trick</p> <p>7 question. Did you really mean on The Ruins matter, or did</p> <p>8 you mean on The Ruins matter coupled with the Parkside and</p> <p>9 Generations matters?</p> <p>10 A I wish it was all three, but it's the one.</p> <p>11 Q I believe you testified this morning that your cash</p> <p>12 flow analysis is based upon the pro forma contained in Mr.</p> <p>13 Luther's July 2025 appraisal; is that correct?</p> <p>14 A My pro forma cash flow analysis is based on his</p> <p>15 assumptions for net operating income. Correct.</p> <p>16 Q You were present in court when Ms. Craig testified that</p> <p>17 the property would be able to put off approximately \$720,000</p> <p>18 per year in net operating income, correct?</p> <p>19 A You said 780?</p> <p>20 Q 720. 720, I believe. Her testimony was 60 a month.</p> <p>21 A Yep, I remember 60. I don't remember 720.</p> <p>22 Q Can we agree that 60 times 12 is 720?</p> <p>23 A It is.</p> <p>24 Q Okay. Can we also agree that that's much higher than</p> <p>25 the pro forma in Mr. Luther's most recent appraisal?</p>	<p style="text-align: right;">Page 156</p> <p>1 MS. TANABE: Objection. This is just kind of</p> <p>2 beating around the same bush that this is trying to get our</p> <p>3 client to disclose whether she has or has not had</p> <p>4 conversations with counsel about strategic matters related</p> <p>5 to their case. And her last answer demonstrates that she</p> <p>6 cannot answer the question without revealing, you know,</p> <p>7 whether and what and why she talks to her lawyers about</p> <p>8 something related to the case. So this just feels like it's</p> <p>9 chipping away at the same problem somewhat relentlessly.</p> <p>10 MR. VERSTANDIG: Your Honor, I think I'd respond</p> <p>11 in two parts. One, the healthy part of this morning was</p> <p>12 testimony premised upon subpoenas she directed her lawyers</p> <p>13 to issue and the analysis she derived therefrom, which</p> <p>14 included an analysis of a plan of reorganization that I have</p> <p>15 to imagine without knowing, was discussed with legal</p> <p>16 counsel.</p> <p>17 The fact that something is discussed with counsel</p> <p>18 does not make it privileged. It's what said to counsel, or</p> <p>19 in certain circumstances, the advice of counsel, that's</p> <p>20 privileged. But two, and I want to be careful not to give</p> <p>21 this away, because I think the witnesses attuned to the</p> <p>22 objection colloquy. This is not going where counsel thinks</p> <p>23 it's going. And I'm two questions away from making clear</p> <p>24 that this is enormously relevant to the issue before the</p> <p>25 court asking the.</p>
<p style="text-align: right;">Page 155</p> <p>1 A It is a higher number.</p> <p>2 Q I think. You testified this morning that your position</p> <p>3 on takeout financing was also premised on Mr. Luther's most</p> <p>4 recent appraisal, correct?</p> <p>5 A Correct.</p> <p>6 Q And that's his appraisal from July of 2025, correct?</p> <p>7 A Correct.</p> <p>8 Q Okay. Let's shift a little bit. The bank had filed a</p> <p>9 foreclosure action against The Ruins prior to the</p> <p>10 bankruptcy, correct?</p> <p>11 A Yes. In South Dakota.</p> <p>12 Q Without telling me anything that was discussed with</p> <p>13 counsel, did the bank make a determination as to whether or</p> <p>14 not it would credit bid at a foreclosure sale?</p> <p>15 A State the question one more time.</p> <p>16 Q Without telling me anything that was discussed with</p> <p>17 counsel, did the bank make a determination as to whether or</p> <p>18 not it would credit bid at a foreclosure sale?</p> <p>19 A We haven't gotten far enough to have those</p> <p>20 conversations. Just to be frank and honest.</p> <p>21 Q Has the bank also, without telling me anything,</p> <p>22 discussed with counsel, which, by the way, is true for Every</p> <p>23 question I ask you, has the bank had any discussions about</p> <p>24 whether or not it would try to buy the property from a</p> <p>25 Chapter 7 trustee?</p>	<p style="text-align: right;">Page 157</p> <p>1 MS. TANABE: Client to testify about her strategy.</p> <p>2 You're asking your creditor to testify about their strategy</p> <p>3 for recovery in a bankruptcy case. It's just. It's</p> <p>4 inappropriate. These are matters she's discussed with</p> <p>5 counsel. It represents the byproduct of advice of counsel.</p> <p>6 It is all circling around the same issue that it is going to</p> <p>7 trip the witness up into blowing her attorney client</p> <p>8 privilege and disclosing matters that she doesn't need to</p> <p>9 disclose to this court.</p> <p>10 MR. VERSTANDIG: I think the idea that a strategy</p> <p>11 for recovery is innately privileged is not only flawed, but</p> <p>12 antithetical to the very hearing we're having. The bank's</p> <p>13 contention is that creditors will be better off Recovering</p> <p>14 in Chapter 7 Debtors contention is that myriad creditors,</p> <p>15 actually, including the bank, will be better off recovering</p> <p>16 in Chapter 11. The bank is a creditor. Yeah. The bank is</p> <p>17 trying to blow holes in the plan of reorganization that the</p> <p>18 debtor has proposed, arguing that it's not a feasible or</p> <p>19 sustainable mechanism for recovery. We're entitled to ask</p> <p>20 questions about how it is that the bank plans to recover if</p> <p>21 they get the very relief for which they are currently</p> <p>22 petitioning.</p> <p>23 MS. TANABE: Debtors have consistently shifted</p> <p>24 their burden of proof onto the creditor in this case, she</p> <p>25 does not have the obligation to prove the feasibility of</p>

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<p>1 someone else's plan. And she doesn't have the. We've been</p> <p>2 scolded for suggesting that there are plans that are more</p> <p>3 beneficial to creditors in the case. So it seems like</p> <p>4 counsel is trying to have it both ways. He can talk about</p> <p>5 it, but the creditor can't.</p> <p>6 THE COURT: I don't remember scolding you. Maybe</p> <p>7 somebody else did. The objections overruled. The answer.</p> <p>8 THE WITNESS: I can answer?</p> <p>9 THE COURT: Yes, you can.</p> <p>10 THE WITNESS: What was the question again?</p> <p>11 BY MR. VERSTANDIG:</p> <p>12 Q Would the bank attempt to purchase the asset from a</p> <p>13 Chapter 7 trustee?</p> <p>14 A Are you asking me my opinion as an individual or are</p> <p>15 you asking me my business? Which would be a team of people</p> <p>16 who have not had this conversation. So I would have to</p> <p>17 speculate. From my perspective. And it's reinforcing what</p> <p>18 I stated prior to. We started a foreclosure in February of</p> <p>19 2024 down in Coddington County. We have been trying to</p> <p>20 collect after not getting paid since November of 2023.</p> <p>21 So normal recourse for a bank when they're not getting</p> <p>22 paid is to liquidate the collateral that has been pledged.</p> <p>23 We still have not been paid. And at this point, because</p> <p>24 that's. We're going to be coming up on the two year</p> <p>25 anniversary, in my mind, it's almost comical on how long</p>	<p>1 A Because then the property would have sat for however</p> <p>2 many more years.</p> <p>3 Q You understand the bank's currently asking to have this</p> <p>4 case converted to Chapter 7, correct?</p> <p>5 A Correct.</p> <p>6 Q You understand that in Chapter 7, a trustee would</p> <p>7 potentially not certainly dispose of the estate's assets at</p> <p>8 sale, correct?</p> <p>9 MS. TANABE: Objection. I mean, he's asking her</p> <p>10 to speculate about what a different person would or wouldn't</p> <p>11 do. He's. I mean, this. If we're going to be consistent.</p> <p>12 If we're going to be consistent, you can stop.</p> <p>13 THE COURT: Sustained.</p> <p>14 BY MR. VERSTANDIG:</p> <p>15 Q Ms. Harless, is it your understanding that the property</p> <p>16 will be worth more once construction is completed?</p> <p>17 A The property will be worth more once it's completed</p> <p>18 after more money is put in.</p> <p>19 Q Going to shift gears a bit here. You testified earlier</p> <p>20 today about the bank's loan being approximately \$3.6 million</p> <p>21 if the REDI program was used as part of permanent financing.</p> <p>22 Do you remember that?</p> <p>23 A Correct.</p> <p>24 Q For clarity, though, the bank would have still loaned</p> <p>25 \$7.2 million during the construction phase of financing,</p>
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<p>1 this has been taking that it almost seems too far off to</p> <p>2 even consider. You're talking about a threshold that seems</p> <p>3 like I can't even see the light at the end of the tunnel is</p> <p>4 my point. So we haven't had these discussions.</p> <p>5 Q Ms. Harless, if the bank came into ownership of the</p> <p>6 property, whether through foreclosure, Chapter 7 trustee</p> <p>7 sale or otherwise, would the bank finish construction?</p> <p>8 A I am not the only one that makes that decision. I</p> <p>9 can't answer that.</p> <p>10 Q Have there been any discussions other than with counsel</p> <p>11 about whether the bank would finish construction?</p> <p>12 A We have done analysis for what it could possibly look</p> <p>13 like, but that doesn't. That's not a -- you're asking on a</p> <p>14 -- you're asking about a decision. And a decision would</p> <p>15 mean that we have enough concrete or concrete details. And</p> <p>16 the one factor on that is not talked about at all. Here is</p> <p>17 the time element. Like I said, we've been trying to</p> <p>18 foreclose since February of 2024.</p> <p>19 The answer theoretically is if we would have had all</p> <p>20 the information that a manager would use to make decisions,</p> <p>21 the answer could have changed over time. I still can't</p> <p>22 answer that. I'm not trying to be obstinate. I'm just</p> <p>23 saying I don't have the right people and the right</p> <p>24 information because we're missing the timepiece. Are we</p> <p>25 talking about a year from now?</p>	<p>1 correct?</p> <p>2 A No. Because you would have --</p> <p>3 MR. VERSTANDIG: Madam Clerk, could we please pull</p> <p>4 up Docket Entry 141, Exhibit 14?</p> <p>5 MS. TANABE: I'd like to lodge an objection, Your</p> <p>6 Honor. Ms. Harless wasn't allowed to testify in a way that</p> <p>7 explained the role of the REDI program during the</p> <p>8 construction phase of the. Of the loan. And it seems like</p> <p>9 council is now asking her to talk about the REDI program</p> <p>10 during the construction phase of the loan. So it seems</p> <p>11 inappropriate that she could not testify on direct, but now</p> <p>12 she suddenly qualified to testify about it on cross. I'm</p> <p>13 not sure what's happening right now.</p> <p>14 MR. VERSTANDIG: Over our objection, Ms. Harless</p> <p>15 was permitted to testify that the REDI program would have</p> <p>16 allowed the bank's exposure to be \$3.6 million. We objected</p> <p>17 to her testifying about the nature of a program that is a</p> <p>18 legal program, and it requires some legal understanding.</p> <p>19 I'm trying to cross-examine her on the very, very narrow bit</p> <p>20 that she did testify to, and namely that the REDI program</p> <p>21 would have reduced the bank's exposure to \$3.6 million. And</p> <p>22 I believe the exhibit we're about to put up is going to</p> <p>23 facially reveal the folly of her testimony.</p> <p>24 MS. TANABE: Your Honor, counsel is conflating</p> <p>25 testimony about the permanent construction phase with the</p>

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<p>1 temporary construct or the permanent phase of the loan and</p> <p>2 the earlier construction phase of the loan. The question</p> <p>3 itself misrepresents her testimony.</p> <p>4 THE COURT: So there isn't a question yet. What</p> <p>5 happened was he asked her to Recall the time when that</p> <p>6 testimony was received. So there were limits to what she</p> <p>7 could testify regarding how the there were limits to what</p> <p>8 she could testify regarding how the person program was</p> <p>9 administered, not how it was going to affect a bank's</p> <p>10 decision. So she testified about that. But I will keep</p> <p>11 your objection and the scope that happened earlier in mind</p> <p>12 as soon as the questions are asked about the program. So</p> <p>13 I'm going to invite you to wait until after the question is</p> <p>14 asked just a couple of seconds to allow Ms. Tanabe to insert</p> <p>15 an objection just in case.</p> <p>16 BY MR. VERSTANDIG:</p> <p>17 Q Ms. Harless, under permanent phase, do you see where it</p> <p>18 says loan amount \$7.2 million 50 percent participated to SD-</p> <p>19 REDI program?</p> <p>20 A I see that.</p> <p>21 Q Correct.</p> <p>22 Q Under construction phase, do you see any reference to</p> <p>23 SD-REDI program?</p> <p>24 MS. TANABE: Objection. This is precisely what</p> <p>25 she was prevented from testifying about. No, it's not the</p>	<p>1 want the approvals done before you break ground. So</p> <p>2 inherently would have been part if it's in the permanent</p> <p>3 phase, it inherently would have been. You would have to</p> <p>4 back into the approval for the construction if you're going</p> <p>5 to do it. And if you're going to have it on the permanent</p> <p>6 side to be compliant on the permanent side, you'd have to</p> <p>7 back into it on the construction side, if that makes any</p> <p>8 sense.</p> <p>9 Q But it's not listed under the construction phase</p> <p>10 portion of the term sheet, is it?</p> <p>11 A It's not listed, but that's how you do it. If that</p> <p>12 makes sense.</p> <p>13 MR. VERSTANDIG: Madam Clerk, I finished with this</p> <p>14 exhibit. Thank you.</p> <p>15 BY MR. VERSTANDIG:</p> <p>16 Q Ms. Harless, has the bank participated any of the three</p> <p>17 Ruins loans?</p> <p>18 MS. TANABE: Objection, relevance.</p> <p>19 THE COURT: You know, I'm sorry, I was writing and</p> <p>20 I don't remember the question. I didn't hear the question.</p> <p>21 Sorry.</p> <p>22 MR. VERSTANDIG: The question was has the bank</p> <p>23 participated any of the three Ruins loans?</p> <p>24 MS. TANABE: And I objected because it's not</p> <p>25 relevant to the inquiry under section 1112 whether the bank</p>
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<p>1 specific question.</p> <p>2 THE COURT: No, it's not.</p> <p>3 MR. VERSTANDIG: No. It was in connection with</p> <p>4 the discussion of loan-to-value and she had started to</p> <p>5 explain. We can deal with it on redirect, but I</p> <p>6 specifically asked her this question on direct and he lodged</p> <p>7 an objection and it was sustained.</p> <p>8 MR. VERSTANDIG: I don't believe this is the</p> <p>9 question Ms. Tanabe asked. I believe she was asking about</p> <p>10 the program. I'm not going to ask about the program. I'm</p> <p>11 simply trying to show that there's absolutely no reference</p> <p>12 to the program in connection with the construction phase</p> <p>13 part of the loan.</p> <p>14 THE COURT: Listen, this particular objection is</p> <p>15 overruled. Let's hear an answer to the first question and</p> <p>16 then there will be another question that follows that might</p> <p>17 go to the heart of the REDI program or not, but you can</p> <p>18 answer that question.</p> <p>19 THE WITNESS: Okay, can you repeat the question?</p> <p>20 BY MR. VERSTANDIG:</p> <p>21 Q Under the construction phase portion of the term sheet,</p> <p>22 do you see any reference to the SD-REDI program?</p> <p>23 A It's not overtly listed, but if you the REDI program is</p> <p>24 meant for new construction, the idea is it's an economic</p> <p>25 development loan product to have a better term. And so they</p>	<p>1 owns 100 percent of its claim or assigned 1 percent of its</p> <p>2 claim, 10 percent of its claim to another party. The debtor</p> <p>3 bears the burden here.</p> <p>4 THE COURT: How is that relevant, Mr. VerStandig?</p> <p>5 MR. VERSTANDIG: One of the questions is the best</p> <p>6 interest of creditors and trying to establish a foundation</p> <p>7 to ask the follow up question, which is whether or not all</p> <p>8 the participants favor conversion or any participants favor</p> <p>9 remaining in Chapter 11.</p> <p>10 MS. TANABE: And this is an issue for solicitation</p> <p>11 and plan confirmation. You're asking Ms. Harless to</p> <p>12 speculate about how parties who are not here right now might</p> <p>13 vote for in favor of a plan later. It's also asking her to</p> <p>14 reveal internal discussions. But again, it's just not</p> <p>15 relevant. Under 1112, the internal discussions are not.</p> <p>16 MR. VERSTANDIG: Privileged in terms of</p> <p>17 solicitation and plan confirmation. If the bank wasn't</p> <p>18 trying to stop us from getting there, I don't think that</p> <p>19 would be an issue. But the question under 1112 is</p> <p>20 admittedly multi prong. And I appreciate the confirmability</p> <p>21 of a plan is one of the prongs, but what I'm focused on is</p> <p>22 the best interest of creditors. We have a small polling of</p> <p>23 creditors who have participated in this hearing, but to the</p> <p>24 extent we can get a feel for the expressed interests and</p> <p>25 inclinations of other economic stakeholders, I believe</p>



<p style="text-align: right;">Page 166</p> <p>1 that's relevant.</p> <p>2 THE COURT: Just a minute. Just remind me again</p> <p>3 with the question. I think I missed the question again</p> <p>4 because this colloquy isn't making sense to me. Say the</p> <p>5 question again. Maybe I didn't hear it.</p> <p>6 MR. VERSTANDIG: Sure. The question is whether or</p> <p>7 not the bank has participated, any of the three loans.</p> <p>8 THE COURT: Participated.</p> <p>9 MR. VERSTANDIG: Participated would mean that they</p> <p>10 have sold part of the loan or it's equivalent to assigning</p> <p>11 part of your claim if you're a general unsecured creditor or</p> <p>12 something like that. They're a fiduciary for other loan</p> <p>13 participants and it seems to be inviting some kind of</p> <p>14 hearsay about what other loan participants have said about</p> <p>15 whether they favor conversion or not. So I'm not really</p> <p>16 sure where he's going with this. So relevance invites</p> <p>17 hearsay.</p> <p>18 MS. TANABE: I don't think hearsay is an</p> <p>19 objection. If I actually ask a question that calls for</p> <p>20 hearsay, that's one thing. For now, the question is whether</p> <p>21 or not.</p> <p>22 MR. VERSTANDIG: So for now the question is, is it</p> <p>23 relevant whether or not the bank owns 100 percent of the</p> <p>24 loan right here today for whether a case should be</p> <p>25 converted? It's not a factor under section 1112.</p>	<p style="text-align: right;">Page 168</p> <p>1 question which is do all of the stakeholders favor</p> <p>2 conversion or have some of them indicated a preference for</p> <p>3 remaining in Chapter 11? That's all I'm trying to get out</p> <p>4 of this foundation.</p> <p>5 MS. TANABE: And if she answers that question, it</p> <p>6 would be hearsay. And you've also repeated counsel has also</p> <p>7 repeatedly said that she's just a layperson, not qualified</p> <p>8 to testify about the meaning of complex legal documents.</p> <p>9 And so if she's not qualified to testify about the meaning</p> <p>10 of a Chapter 11 plan, she shouldn't be asked to testify</p> <p>11 about the rights of parties under a loan participation</p> <p>12 agreement either.</p> <p>13 MR. VERSTANDIG: To be clear, I'm not going to ask</p> <p>14 her to interpret an agreement that we don't have, simply</p> <p>15 going to ask probably. I mean my follow-up questions from</p> <p>16 rough order are going to be who are the participants? What</p> <p>17 percentages of the loans do they have? And do you have an</p> <p>18 understanding, which I'll ask artfully to get around hearsay</p> <p>19 as to whether each of them favors conversion to Chapter 7 or</p> <p>20 remaining in Chapter 11.</p> <p>21 THE COURT: So I really feel like it would only be</p> <p>22 relevant if the participation agreement required that the</p> <p>23 bank either vote on behalf of the majority of the</p> <p>24 participants or if the bank doesn't have the exclusive</p> <p>25 authority to make a decision about that vote. So if I. If</p>
<p style="text-align: right;">Page 167</p> <p>1 THE COURT: Okay. So I understand what</p> <p>2 participated means. My concern is, what I don't understand</p> <p>3 is if is whether the bank has to reveal whether any other</p> <p>4 participant would or would not vote. If it's the one</p> <p>5 extending the vote, is there something, there might be</p> <p>6 something that I don't understand in that regard to frame</p> <p>7 the relevance of this.</p> <p>8 So Mr. VerStandig, is the bank obligated to</p> <p>9 provide debtors with the background of whether the</p> <p>10 participants would vote for the plan? If it has the vote</p> <p>11 for the plan, do participants get to vote? I don't know.</p> <p>12 Is that a thing?</p> <p>13 MR. VERSTANDIG: The interest, best I understand</p> <p>14 it is it would depend on the participation agreement. We</p> <p>15 don't have the participation agreement in my experience,</p> <p>16 which is not this case. I want to be very clear about that.</p> <p>17 Normally the lending institution would be the entity that</p> <p>18 cast a Chapter 11 ballot with a fiduciary charge to</p> <p>19 participants. I think what I'm driving at is I'd like to</p> <p>20 know whether or not there's something different here,</p> <p>21 meaning whether or not an entity or coalition of entities</p> <p>22 other than the bank are actually in control. But more</p> <p>23 pointedly, since I don't believe any privilege would attach</p> <p>24 to conversations between the bank and participants, meaning</p> <p>25 the bank and its co-stakeholders, I want to really ask the</p>	<p style="text-align: right;">Page 169</p> <p>1 the participation agreement is not available, I can't decide</p> <p>2 about the relevance.</p> <p>3 MR. VERSTANDIG: Very well, Your Honor, I can move</p> <p>4 on.</p> <p>5 THE COURT: So, yeah, I'm going to sustain the</p> <p>6 objection.</p> <p>7 BY MR. VERSTANDIG:</p> <p>8 Q Ms. Harless, this morning, do you remember testifying</p> <p>9 about the bank making other commercial loans during the time</p> <p>10 period of The Ruins loans?</p> <p>11 A Yes.</p> <p>12 THE COURT: You can switch the monitor back to the</p> <p>13 witness.</p> <p>14 MR. VERSTANDIG: Thank you, Your Honor.</p> <p>15 BY MR. VERSTANDIG:</p> <p>16 Q Were any of those other loans for some in excess of \$2</p> <p>17 million?</p> <p>18 A Can you remind me of my testimony just to make sure</p> <p>19 that a lot has gone? Is that even possible?</p> <p>20 Q I am broadly paraphrasing and I am not trying to put</p> <p>21 words into your mouth. My notes are that you testified it</p> <p>22 was in the context of other borrowers going over budget and</p> <p>23 making equity contributions and things of the like. And I</p> <p>24 believe you testified that the bank made other commercial</p> <p>25 loans during the same time period that it was making The</p>

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<p>1 Ruins loans. None of that is a precise quote.</p> <p>2 A Okay.</p> <p>3 THE COURT: So now, reminder of the question</p> <p>4 again. Thank you.</p> <p>5 MR. VERSTANDIG: Sure.</p> <p>6 BY MR. VERSTANDIG:</p> <p>7 Q Were any of those other loans for some in excess of \$2</p> <p>8 million?</p> <p>9 A And you said The Ruins time period?</p> <p>10 Q Yes.</p> <p>11 A My apologies, but I have a banking brain and so when</p> <p>12 you. When we use broad generalizations, I struggle with</p> <p>13 that just because my default is to be hyper specific,</p> <p>14 because the details matter. And so I don't want to</p> <p>15 misspeak. Even if this might be an obvious. You are.</p> <p>16 Everybody already knows the answer, if that makes any sense.</p> <p>17 Q Sure. So I'm not trying to trip you up and I'm not</p> <p>18 referring to Generations or Parkside, for what it's worth.</p> <p>19 I'm simply trying to get an understanding. You had</p> <p>20 testified that other loans that had gone over budget had</p> <p>21 equity contributions, and I wanted to know if those loans</p> <p>22 were for more than \$2 million. I'm trying to get a sense of</p> <p>23 whether they're of a comparable size or not.</p> <p>24 A Say that one more time because I think I misunderstood</p> <p>25 you.</p>	<p>1 Q I'm not sure I know what you mean by across the bank --</p> <p>2 A Not specific.</p> <p>3 Q -- residential loans.</p> <p>4 A Not specific to Jesse Craig or any of these entities.</p> <p>5 Q Correct. Any commercial entity on the face of the</p> <p>6 earth?</p> <p>7 A Yes. Then yes.</p> <p>8 Q Okay. Approximately how many of those borrowers came</p> <p>9 back and asked for further funds? Strike that. I asked</p> <p>10 that horribly and I'm sorry. How many of those were</p> <p>11 construction loans?</p> <p>12 A I don't track data that way.</p> <p>13 Q Do you know if the bank had more than half a dozen</p> <p>14 construction loans of that amount during that time period?</p> <p>15 A We don't measure data that way. You're asking for</p> <p>16 information in a way that provides no relevance from a</p> <p>17 management standpoint, so I don't know it offhand.</p> <p>18 Q Ms. Harless, you're an equity holder in the bank, are</p> <p>19 you not?</p> <p>20 MS. TANABE: Objection, relevance.</p> <p>21 MR. VERSTANDIG: I'm trying to establish why she</p> <p>22 should know the answer to this question.</p> <p>23 MR. FEIST: She's present in her capacity as a</p> <p>24 representative of the bank and she's testified that about</p> <p>25 what is typical in other loans during the same time period,</p>
Page 171	Page 173
<p>1 Q The other loans that the bank made during the time</p> <p>2 period of The Ruins loan, other than the ones to Generations</p> <p>3 in Parkside, were any of them for a sum in excess of \$2</p> <p>4 million.</p> <p>5 A Outside of the lake home, you said?</p> <p>6 Q I didn't say that. But you can exclude that as well?</p> <p>7 Yes.</p> <p>8 MR. HUSHKA: Your Honor, can we clarify? Is he</p> <p>9 asking to the Craig and the Craig entities or Is this any</p> <p>10 loan to any Red River State Bank entities? I don't know if</p> <p>11 it's clear.</p> <p>12 BY MR. VERSTANDIG:</p> <p>13 Q Any loan to any Red River State Bank entity? It's</p> <p>14 cross-examination premised on the witness's testimony about</p> <p>15 how other borrowers comported themselves during the same</p> <p>16 time period.</p> <p>17 A So just so I'm clear, you're asking if the bank did any</p> <p>18 loans to anybody during the March of '22 to I think it was</p> <p>19 like April of '23. Don't quote me on that. On the back end</p> <p>20 time frame.</p> <p>21 Q For a sum in excess of \$2 million.</p> <p>22 A I'm sure we did that because \$2 million.</p> <p>23 Q Two.</p> <p>24 A And that would be to -- across the bank is what you're</p> <p>25 saying.</p>	<p>1 what her personal financial matters are should really have</p> <p>2 no relevance to this case.</p> <p>3 THE COURT: It goes to credibility. I'm going to</p> <p>4 overrule.</p> <p>5 THE WITNESS: What was your question again?</p> <p>6 BY MR. VERSTANDIG:</p> <p>7 Q You're an equity holder in the bank, correct?</p> <p>8 A I am not an equity holder in the bank.</p> <p>9 Q You're an equity holder in the bank holding company?</p> <p>10 A Yes.</p> <p>11 Q The bank has less than \$120 million in deposits.</p> <p>12 Correct.</p> <p>13 A For what time period?</p> <p>14 Q As we sit here today.</p> <p>15 A I don't think that's accurate. As of today, what do</p> <p>16 you believe.</p> <p>17 Q The bank's total deposits to be as of today?</p> <p>18 A \$115 million possibly.</p> <p>19 Q Can we agree that's less than \$120 million?</p> <p>20 A Yes.</p> <p>21 Q You're saying you're not sure how many of the loans in</p> <p>22 excess of \$2 million were for construction projects over the</p> <p>23 past few years?</p> <p>24 A So in our loan system, we don't type code based on if</p> <p>25 they were used for construction or if they are already</p>

<p style="text-align: right;">Page 174</p> <p>1 finished projects, they're lumped into call report codes.</p> <p>2 So I don't look at reports based off of if they're being</p> <p>3 constructed or not. I'm looking at other financial data.</p> <p>4 It's hyper specific to the angle of what you're asking.</p> <p>5 MR. VERSTANDIG: You Honor, may I have the court's</p> <p>6 indulgence for one moment just to quickly touch base with my</p> <p>7 client?</p> <p>8 THE COURT: Yes, you may.</p> <p>9 MR. VERSTANDIG: Thank you. Thank you. Your</p> <p>10 Honor, nothing further for this witness.</p> <p>11 THE COURT: Mr. Feist, do you have any questions?</p> <p>12 MR. VERSTANDIG: I do not.</p> <p>13 THE COURT: Thank you.</p> <p>14 Redirect?</p> <p>15 MS. TANABE: Thank you, Your Honor.</p> <p>16 REDIRECT EXAMINATION OF DANIELLE HARLESS</p> <p>17 BY MS. TANABE:</p> <p>18 Q I just want to kind of clarify some things that were</p> <p>19 discussed a moment ago, Danielle. So I'm going to go back</p> <p>20 over some questions you were just asked. Has the debtor</p> <p>21 ever provided an accounting to you of how it spent The Ruins</p> <p>22 notes proceeds.</p> <p>23 A Well when they submit draw requests. Theoretically</p> <p>24 that's an accounting because that's saying how I'm spending</p> <p>25 it. There would be budgets that came before.</p>	<p style="text-align: right;">Page 176</p> <p>1 proceeds were commingled with other projects or maybe spent</p> <p>2 on other projects?</p> <p>3 A Do I have a good-faith belief?</p> <p>4 Q Just based on your -- you've testified that you work on</p> <p>5 a lot of special assets projects, that you've worked many,</p> <p>6 many hours on this project. Are you concerned that that</p> <p>7 Ruins loan proceeds may have been used for other projects?</p> <p>8 MR. VERSTANDIG: Objection, leading.</p> <p>9 THE COURT: Ms. Tanabe?</p> <p>10 MS. TANABE: May I respond? Yes. I'm just trying</p> <p>11 to clarify what the purpose of the chart was. We were going</p> <p>12 to save it for closing, but I think it'd be helpful to just</p> <p>13 kind of illustrate what the purpose of the charts are while</p> <p>14 it's still fresh in our minds.</p> <p>15 MR. VERSTANDIG: The question was what's the</p> <p>16 purpose of the chart? That would not be leading and I have</p> <p>17 no objection.</p> <p>18 THE COURT: Is that the question you'd like to</p> <p>19 ask?</p> <p>20 MS. TANABE: I think my last question was when you</p> <p>21 drafted your declaration, was it your intention to prove</p> <p>22 exactly how each time dollar was spent? My second question.</p> <p>23 THE COURT: Okay, well, hold it, hold it, hold it,</p> <p>24 hold it. We just got to do this one at a time because it's</p> <p>25 already confusing. So why don't you ask a question like</p>
<p style="text-align: right;">Page 175</p> <p>1 Q Until you received loan requests that were proposing to</p> <p>2 spend it on certain things. But have you ever seen a</p> <p>3 breakdown of all the dollars that were spent on the project</p> <p>4 from the debtor? And if my word accounting is confusing.</p> <p>5 Do you remember at the beginning of this case there was a</p> <p>6 request for an accounting and sometimes it's been called a</p> <p>7 loan history or so just. Have you seen any kind of detailed</p> <p>8 accounting of how the debtor spent money on the project.</p> <p>9 A Outside of what was submitted when the loan advances</p> <p>10 were done? No. Nothing like post (indiscernible) or</p> <p>11 whatever? Like nothing from that perspective.</p> <p>12 Q Okay, and are you a forensic accounting or do you have</p> <p>13 forensic accounting training?</p> <p>14 A No, but I feel like I have it now.</p> <p>15 Q Well, facetiously aside or jokes aside, are you</p> <p>16 literally a forensic accountant?</p> <p>17 A No, I am not.</p> <p>18 Q So when you drafted your declaration, was it your</p> <p>19 intention to prove exactly how The Ruins loan proceeds were</p> <p>20 spent by the debtor?</p> <p>21 A No, it was to show that this occurred and it's</p> <p>22 something to look into because I feel it's concerning and it</p> <p>23 shouldn't have happened and I feel that there's value there.</p> <p>24 Coming from a creditor standpoint, do you.</p> <p>25 Q Have a good-faith belief then that some Ruins loans</p>	<p style="text-align: right;">Page 177</p> <p>1 we're going to start from scratch, ask a new question, just</p> <p>2 one at a time.</p> <p>3 BY MS. TANABE:</p> <p>4 Q It's difficult subject matter so we'll give it a try</p> <p>5 again here. Okay. So we established that you are not a</p> <p>6 forensic accountant. Notwithstanding how you feel, when you</p> <p>7 drafted the declaration, was it your intention to provide</p> <p>8 some kind of like last in, first out, first in, first out</p> <p>9 type of analysis of the debtors accounts?</p> <p>10 A What do you mean by first in, first out, last in or</p> <p>11 those are account?</p> <p>12 Q Well, this is further evidence that you're not LIFO,</p> <p>13 FIFO. So I think what I was asking you is. Excuse me.</p> <p>14 Excuse me. Okay. Sorry about that. Do you -- when you</p> <p>15 produced your declaration and the charts in your</p> <p>16 declaration, were you concerned by the commingling or by the</p> <p>17 transfers?</p> <p>18 A As a banker, we don't like to see any funds commingled.</p> <p>19 We trust that the customer is doing what they say they're</p> <p>20 going to do as part of the contract. So when we see that,</p> <p>21 that's a red flag. When we see that things didn't happen</p> <p>22 the way that the customer stated they were going to happen.</p> <p>23 And there's typically domino things that go off of. When</p> <p>24 you see one thing you typically see more. That's just</p> <p>25 coming from my experience.</p>

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<p>1 Q So did this pattern of transfers, does this negatively 2 affect your business relationship with Mr. Craig and the 3 Craig entities? 4 A Yes. 5 Q And were you present when Mr. Craig testified that he 6 would not be inclined to investigate or sue himself? I 7 believe the phrase was yes. And are you confident that the 8 plan proposed by the debtors would cause someone to 9 investigate these transfers? 10 A Doesn't look like Mac has a problem with it. I didn't 11 see anywhere in the plan that that was laid out that they 12 were going to pursue those. 13 Q And do you think that's in your interest as a creditor 14 or do you think that serves the interests of the Insider. 15 A That would serve the interest of the insider. 16 Q So when you produced these charts, what were you hoping 17 to achieve or what would be a benefit? What were you hoping 18 a Chapter 7 trustee would do with this chart? 19 A As a banker, information leads us to make decisions. 20 So whether or not my numbers weren't meant to be hyper 21 accurate to the penny, but the dollar amounts are big enough 22 that I would hope that when the trustee looks at it, they 23 would say there's value here and they would look into doing 24 what's proper for what they should be doing for the 25 creditors.</p>	<p>1 a specific reference to both the appraiser and the 2 construction expert. 3 MS. TANABE: Bank representative is a term that's 4 specifically used in the two other in the cash collateral 5 stipulations for the two other debtors. And it specifically 6 means Charles and Danielle. So the use of the words bank 7 representative might have been confusing. Trying to clarify 8 what she meant when she heard that phrase and answered that 9 question. 10 MR. VERSTANDIG: I'm aware, though, which is why I 11 asked about a bank agent and not representative. 12 MS. TANABE: And being a layperson, I think I'm 13 just trying to clarify what she meant by that, given the 14 possibility for confusion, given the special meaning of that 15 term in this case or in these cases. 16 THE COURT: Okay. I'm just going to ask you 17 because you'd have to repeat the question anyway. Why don't 18 you restate the Question or repeat it? Either one. 19 MS. TANABE: Sure. 20 BY MS. TANABE: 21 Q When Mr. VerStandig asked you if a bank representative 22 had been on site at The Ruins in the past year, did you 23 think he meant you and Charles personally? 24 A That's what I -- 25 Q As opposed -- okay, and so do you. Were you present</p>
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<p>1 Q So your goal wasn't to prove how much anybody, how 2 anybody, how much anyone owes the estate or something like 3 that, but just to demonstrate that, or it's your hope that 4 as a creditor that a Chapter 7 trustee would investigate 5 those? 6 A Correct. 7 Q I'm going to switch gears. Do you believe the TIF is 8 an asset of the estate? Right now? We're on the petition 9 date. 10 A It was assigned well before, so it's not an asset. 11 Q So did you think you needed to file a claim to get it 12 back or something like that? 13 A It should never have been on the. It logically 14 wouldn't have been on the table to make that decision. 15 Q And by the table, you mean the schedules in the case. 16 Okay, and just want to clarify something that Mr. VerStandig 17 said about physical visits or site visits to the property. 18 Mr. VerStandig asked you if you thought a bank 19 representative or an agent of the bank had been on site in 20 the past year. When he asked you that, were you talking 21 about yourself and Charles, that you haven't personally been 22 on site in the last year? 23 MR. VERSTANDIG: Objection, mischaracterizes the 24 question. The testimony and asked and answered the question 25 was very clear. The agent of the bank, and it even included</p>	<p>1 when Matt Gehrtz testified recently about his building 2 report? 3 A Yes. 4 Q And do you recall that he testified that he went to the 5 site, made a site visit and took photos? I think Mr. 6 VerStandig referenced that too. 7 A I was there when he did that. 8 Q So did you hire Matt Gehrtz to go to The Ruins and take 9 those photos and make that report after the bankruptcy case 10 was filled? The most recent report was that after the 11 bankruptcy case was filed. 12 A I'm starting to confuse dates because he did multiple 13 reports. So I just don't want to be inaccurate. 14 Q We could refresh your recollection. 15 MS. TANABE: Could the clerk please pull up Docket 16 Number 61? Thank you. And can we scroll to Exhibit C? I 17 think it's going to be Number 405 in the PDF. It might be 18 the page. The ECF pagination. It might be 405. There's 19 some noise on the line. I'm not sure where it's coming 20 from. Right. 21 THE COURT: Me neither. Can you tell -- 22 MR. VERSTANDIG: (Indiscernible) muted for once. 23 MS. TANABE: (Indiscernible) I can mute too. 24 MR. VERSTANDIG: It looks like it's coming from 25 the --</p>

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<p>1 THE COURT: Number with the 218 area code on my 2 screen. 3 MR. VERSTANDIG: Anyway. 4 THE COURT: Can you mute that person? 5 MS. TANABE: Thank you. Okay. 6 THE COURT: Thanks. 7 MS. TANABE: Thank you. That's helpful. 8 BY MS. TANABE: 9 Q Okay. Do you recognize this report? 10 A I do. 11 Q And did the bank hire Gehrtz to produce this report? 12 A We did. 13 Q And what's the date on that report? 14 A June 10th of 2025. 15 Q And the first sentence of the second paragraph. Can 16 you take a look there? 17 A Paraphrasing, there was an observation on April 17th of 18 '24, with a follow-up September 24th of '24, with a second 19 follow-up May 6th of 2025. 20 Q And then after that it says there was a follow-up 21 inspection. 22 A That would be the same. The follow-up further, that's 23 referencing the second interval of time, I think. 24 Q So with the benefit of some refreshing here, when you 25 were asked whether any bank representative or agent of the</p>	<p>1 Q So you think it was emailed to the bank or you have a 2 memory of seeing an email at some point in time? 3 A There's so many documents and details on all this 4 stuff. I don't want to misspeak. Because there's multiple 5 properties and we're only talking about The Ruins today. 6 So. 7 Q Was another bank ever involved before Red River State 8 Bank in providing financing for The Ruins? 9 A Another bank was being courted, was my understanding. 10 But financing, never. I wasn't involved directly in those 11 discussions. But another bank was involved. I don't recall 12 the reason for why it didn't go through with the other bank. 13 Obviously I wouldn't have inside knowledge either. But I 14 know that there was another bank as part of the. As part of 15 the beginning life of before everything happened. 16 Q And did Martin Peterson have a relationship with that 17 other bank? 18 A I wouldn't know that, no. 19 Q Is it possible that Jesse Craig handed the 20 architectural drawings to Martin Peterson? 21 MR. VERSTANDIG: Objection, calls for speculation. 22 The question is literally phrased is it possible? 23 THE COURT: Sustained. 24 MS. TANABE: Shall I reword it? 25 BY MS. TANABE:</p>
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<p>1 bank had been at the project, do you think. Would you 2 change your answer to that question now? 3 A I would. We hired Gehrtz and he was an agent of the 4 bank and he used the on site visit to prepare his report. 5 Q Okay. Very good. So just to move on, there was some 6 discussion about original plans versus subpoenaed plans or I 7 think they've been referred to as customer supplied plans 8 versus subpoenaed plans. So I'm going to ask you, I'm going 9 to transition to talking about that for a moment. Would the 10 bank have created any plans or architectural drawings for 11 The Ruins? 12 A We're bankers. We know our numbers. We know our 13 spreadsheets. But we don't design buildings. We're not 14 artists. We're the opposite of artists. So we would not 15 have created or modified any floor plans, architecture 16 drawings, anything like that. 17 Q And so either based on your recollection, do you know 18 how the bank came to acquire the architectural drawings? At 19 the beginning of the construction, before the first Ruins. 20 A Note the drawings were provided to Martin Peterson from 21 Jesse Craig. 22 Q And how do you know that? 23 A I've seen an email. And it would be logical that since 24 he's the one that ordered the appraisal, that he would have 25 had to receive it.</p>	<p>1 Q Based on your review of the loan file and your 2 familiarity with the matter, did Mr. Craig ever physically 3 visit the bank in connection with Ruins file? 4 A He physically has visited the bank and so it is 5 possible that we would have received it not through email 6 also. 7 Q And if it had been emailed to you by Mr. Craig, you 8 think it would have been from his email account as opposed 9 to some other third party at his direction? 10 A It would be unusual that somebody else would email. 11 Like from the architect, you mean? 12 Q Yes. So you testified that to get drawings for the 13 last appraisal from the architect that you had to subpoena 14 those documents. So did you Directly request. Do you know 15 whether the bank directly requested documents from an 16 architect or some other third party for The Ruins? 17 A We had to subpoena for those to get a copy. 18 Q But so you're confident that you got the original 19 drawings from Mr. Craig as opposed to an architect. For the 20 original drawings? 21 A Correct, because if we would have gotten them from the 22 architect, they should match. 23 Q Okay, and did the drawings in the first report have any 24 signature or stamp or any other kind of logo, et cetera, 25 from an architect?</p>

<p style="text-align: right;">Page 186</p> <p>1 A Upon reviewing the appraisals, I don't recall seeing --</p> <p>2 I don't recall seeing a stamp like that was similar to.</p> <p>3 They looked very similar, but they were not the same. It</p> <p>4 was subtle. And the most recent subpoena, there was a red,</p> <p>5 you know, like an old wax stamp looking in the upper right</p> <p>6 hand corner. So they were -- they're different.</p> <p>7 Q Would it help to see the first report that contains the</p> <p>8 architectural drawings that I'm returning to right now?</p> <p>9 A Yes.</p> <p>10 Q One moment.</p> <p>11 THE COURT: Wasn't this highlighted</p> <p>12 (indiscernible) testimony. Is it necessary?</p> <p>13 MS. TANABE: I think it -- I was actually just</p> <p>14 kind of questioning whether I'm being redundant, Your Honor.</p> <p>15 And whether I think it might be. I was policing myself. So</p> <p>16 I'm going to retract that question.</p> <p>17 THE COURT: Thank you.</p> <p>18 MS. TANABE: The only -- I think I have asked the</p> <p>19 source of the drawings and that's probably enough. Can you</p> <p>20 go back to ECF 177. And this will be my last question. I'm</p> <p>21 sorry, I have the wrong document number. Looking for The</p> <p>22 Ruins term sheet that Mr. VerStandig had open a moment ago.</p> <p>23 Can we pull that back up?</p> <p>24 MR. VERSTANDIG: 141. Exhibit 14, for what it's</p> <p>25 worth.</p>	<p style="text-align: right;">Page 188</p> <p>1 the permanent phase if you had not had it in the prior</p> <p>2 phase.</p> <p>3 A Correct. It had to be done at the very beginning. It</p> <p>4 had to be part of the plan. You have to apply for it at the</p> <p>5 beginning. You can't get it after.</p> <p>6 Q And I see that loan-to-value ratio is a condition of</p> <p>7 both the construction and the permanent phase. Would not</p> <p>8 having the REDI program increase the loan-to-value ratio or</p> <p>9 did I should ask the question better? If the debtor did not</p> <p>10 have the REDI program at the time these loans were made,</p> <p>11 would it increase the loan-to-value ratio beyond what the</p> <p>12 bank found acceptable?</p> <p>13 A Because there's no notation of a cash injection. It's</p> <p>14 read through as a requirement from the REDI program. So</p> <p>15 since if you remove out the REDI program, that automatically</p> <p>16 removes out a million dollars in down payment money. If you</p> <p>17 follow me. So it would affect the loan-to-value because you</p> <p>18 were moving out of an equity injection. The whole document</p> <p>19 would have been written different without that. It all</p> <p>20 matters.</p> <p>21 MS. TANABE: Okay. Thank you. I just need a</p> <p>22 moment. Okay. Nothing further.</p> <p>23 THE COURT: Recross?</p> <p>24 RECROSS-EXAMINATION OF DANIELLE HARLESS</p> <p>25 BY MR. VERSTANDIG:</p>
<p style="text-align: right;">Page 187</p> <p>1 MS. TANABE: Thank you.</p> <p>2 BY MS. TANABE:</p> <p>3 Q So I think we need to go up to -- there we go -- the</p> <p>4 term sheet. So a moment ago you testified about the South</p> <p>5 Dakota REDI program and it was clear what your testimony was</p> <p>6 to me about the permanent phase. But I want to clarify</p> <p>7 something you said about the construction phase. Is the</p> <p>8 South Dakota REDI program relevant to the second condition</p> <p>9 in the construction phase of the term sheet? Is it factored</p> <p>10 into that condition?</p> <p>11 A I believe it matches the verbiage exact. If you scroll</p> <p>12 down just a bit.</p> <p>13 Q So you had said that the South Dakota REDI program was</p> <p>14 factored into the construction phase. What did you mean by</p> <p>15 that?</p> <p>16 A When you do as a banker, you have to look at the entire</p> <p>17 life cycle and you have to structure a loan based on not</p> <p>18 handicapping yourself for one phase or the other. So if you</p> <p>19 knew in the permanent phase that you were going to do the or</p> <p>20 utilize the REDI program, you would need the language is the</p> <p>21 same. You would need to make sure that. You would need to</p> <p>22 make sure that the parameters of the first loan don't</p> <p>23 invalidate your second phase.</p> <p>24 Q Okay. So if I understand you correctly, you're saying</p> <p>25 it wouldn't be possible to have REDI program financing in</p>	<p style="text-align: right;">Page 189</p> <p>1 Q Ms. Harless, how much was the TIF loan for Ruins?</p> <p>2 A \$2.2 million rounded. I don't know the exact dollar</p> <p>3 amount.</p> <p>4 Q The bank's financing commitment was 7.2 million.</p> <p>5 Right?</p> <p>6 A The bank's financing off the term or the term sheet</p> <p>7 number. Is that what you're referring to?</p> <p>8 Q Yep.</p> <p>9 A Correct.</p> <p>10 Q You agree that \$2.2 million is a little more than 23.4</p> <p>11 percent of \$9.4 million?</p> <p>12 A Yes, but that's not the entire picture.</p> <p>13 Q Just asked if we could agree that it's a little more</p> <p>14 than 23.4 percent. And you testified earlier that the TIF</p> <p>15 money went in before the bank's money, correct?</p> <p>16 A Correct.</p> <p>17 MR. VERSTANDIG: Thank you. Nothing further.</p> <p>18 THE COURT: Mr. Feist, anything?</p> <p>19 MR. FEIST: No.</p> <p>20 THE COURT: Thank you. All right, then you may be</p> <p>21 excused.</p> <p>22 MS. HARLESS: All right.</p> <p>23 THE COURT: Any other evidence on behalf of Red</p> <p>24 River State Bank?</p> <p>25 MS. TANABE: No, Your Honor.</p>



<p style="text-align: right;">Page 190</p> <p>1 THE COURT: All right. On behalf of debtors, Mr.  2 VerStandig, (indiscernible) to call.  3 MR. VERSTANDIG: Yes, Your Honor. Debtor calls  4 Barry Matson.  5 CLERK: Please state your name for the record.  6 MR. MATSON: Barry Matson.  7 CLERK: Do you solemnly swear that the testimony  8 you are about to give in this case will be the truth, the  9 whole truth and nothing but the truth, so help you God?  10 MR. MATSON: Yes.  11 CLERK: Please take the stand.  12 THE COURT: Have you scooch up and then you might  13 want to pull that microphone a little bit closer to you.  14 And then is the box green or red. All right, now state your  15 name for the record so that I know if I can hear you.  16 MR. MATSON: Barry Matson.  17 THE COURT: I'm going to have you either scooch  18 the microphone closer or you could scoot up. Whatever's  19 most comfortable. Okay. Let's try again.  20 MR. MATSON: Barry Matson.  21 THE COURT: You'll have to be mindful of either  22 speaking up or getting closer to it because I can just  23 barely hear you.  24 MR. MATSON: Okay. Sorry.  25 THE COURT: All right, Mr. VerStandig, you may</p>	<p style="text-align: right;">Page 192</p> <p>1 A Yes.  2 Q Did you do some work on The Ruins before construction  3 stopped?  4 A Yes, I framed it and cited what is down there, about 60  5 percent of it.  6 Q When did you last visit The Ruins?  7 A I was there Friday before I came up here. The 21st.  8 Q So about four days ago?  9 A Yes.  10 Q Did you have an opportunity to look at it when you were  11 there?  12 A Yes, I did. About a half hour. Walked through it,  13 looked at the outside.  14 Q How did its condition compare to when construction  15 stopped?  16 A It's not that bad. The inside looks about the same.  17 There's some broken windows. They were broken when I put  18 them in. They were supposed to be fixed. Overall, it's not  19 that much different.  20 MR. VERSTANDIG: Madam Clerk, could you please  21 pull up Document 182-1 and go to Page 37.  22 BY MR. VERSTANDIG:  23 Q Mr. Matson, while the clerk's pulling up a document,  24 can you explain a little more about the framing and siding  25 work you did on The Ruins before construction stopped? What</p>
<p style="text-align: right;">Page 191</p> <p>1 proceed.  2 MR. VERSTANDIG: Thank you, Your Honor.  3 DIRECT EXAMINATION OF BARRY MATSON  4 BY MR. VERSTANDIG:  5 Q Mr. Matson, what do you do for a living?  6 A I do framing and siding construction.  7 Q How long?  8 A I've been doing it about 25 years now.  9 Q Where do you do framing and siding?  10 A Where do I do it? I do it in South Dakota.  11 Q Okay. All over South Dakota?  12 A Yeah. Yes.  13 Q How did you learn to do framing and siding?  14 A I learned it from my dad starting up as a kid, and then  15 I learned from my brothers and then started my own company,  16 2020.  17 Q What's your company?  18 A B&amp;W Construction.  19 Q Mr. Matson, during those 25 years, approximately how  20 many job sites have you been on?  21 A Thousands.  22 A Lots.  23 Q Are you familiar with a building known as The Ruins?  24 A Yes.  25 Q Have you visited The Ruins in person?</p>	<p style="text-align: right;">Page 193</p> <p>1 does that entail?  2 A We got prebuilt walls and we erected the whole building  3 for the framing part and then we sided or then we papered it  4 with the Tyvek, installed the windows, and then we proceeded  5 to install the siding until. Yeah.  6 Q Of the work you were handling, how much remains to be  7 done?  8 A How much remains to be done? Yeah, there's about 40  9 percent probably left.  10 MR. VERSTANDIG: Madam Clerk, could you scroll  11 down? For reasons I don't fully understand your page  12 numbers and mine are a little bit off. Thank you.  13 BY MR. VERSTANDIG:  14 Q Mr. Matson, do you recognize this document?  15 A Yes.  16 Q What is this?  17 A It's an LOI. We're going to propose to finish the job,  18 and then once it's completed and rented, then we'll get paid  19 for it.  20 MR. VERSTANDIG: Madam Clerk, could you scroll  21 down a little bit?  22 BY MR. VERSTANDIG:  23 Q Is that your signature, Mr. Matson?  24 A Yes.  25 Q Are you willing to do the completion work on the</p>

<p style="text-align: right;">Page 194</p> <p>1 conditions set forth in here?</p> <p>2 A Yes.</p> <p>3 Q Were you approached by anyone about doing this?</p> <p>4 A About this LOI?</p> <p>5 Q Yeah. Did anyone present it to you?</p> <p>6 A Yes.</p> <p>7 Q Who was that?</p> <p>8 A Jesse.</p> <p>9 Q And you reviewed it with Mr. Craig?</p> <p>10 A Yes.</p> <p>11 Q And you knew that if you signed it, it would be relied</p> <p>12 upon?</p> <p>13 A Yes.</p> <p>14 MR. VERSTANDIG: Okay. Your Honor, I'm not moving</p> <p>15 this into evidence for the sole reason that it's already in</p> <p>16 evidence. An exhibit to the plan. But that's all we have</p> <p>17 with this exhibit.</p> <p>18 BY MR. VERSTANDIG:</p> <p>19 Q Mr. Matson, is your company owed money by The Ruins?</p> <p>20 A Yes.</p> <p>21 Q So you're a creditor in this case?</p> <p>22 A Yes.</p> <p>23 Q As a creditor, do you have a preference as to whether</p> <p>24 construction should be finished or not?</p> <p>25 A Yeah.</p>	<p style="text-align: right;">Page 196</p> <p>1 agreement if you were not paid in full within 24 months?</p> <p>2 A Yes.</p> <p>3 Q Are you relying on being paid in full within 24 months</p> <p>4 to perform completion work on The Ruins development?</p> <p>5 Q Yes.</p> <p>6 Q Additionally, you indicated that you are a creditor of</p> <p>7 The Ruins at this point.</p> <p>8 A Fair. Yes.</p> <p>9 Q Specifically, you filed a proof of claim, and when I</p> <p>10 say you B&amp;W filed a proof of claim for approximately</p> <p>11 \$575,000, correct?</p> <p>12 A Yes.</p> <p>13 Q So if The Ruins were sold in June, your construction</p> <p>14 liens were stripped off, you'd be a general unsecured claim</p> <p>15 for 575,000.</p> <p>16 A Yes.</p> <p>17 Q But is it your understanding of the current proposed</p> <p>18 plan that that amount actually be bootstrapped up?</p> <p>19 A Yes.</p> <p>20 Q And so if the plan is approved, you stand to not only</p> <p>21 make money on materials and labor to finish the</p> <p>22 construction, but your current claim of 575,000 would be</p> <p>23 see, better priority than what it would currently.</p> <p>24 A Yes.</p> <p>25 MR. HUSHKA: Just a moment, Your Honor.</p>
<p style="text-align: right;">Page 195</p> <p>1 Q What's your preference?</p> <p>2 A We would like it to be finished.</p> <p>3 MR. VERSTANDIG: Thank you, Your Honor. I have</p> <p>4 nothing further for this witness.</p> <p>5 THE COURT: Cross-examination?</p> <p>6 MR. HUSHKA: Thank you, Your Honor</p> <p>7 CROSS-EXAMINATION OF BARRY MATSON</p> <p>8 BY MR. HUSHKA:</p> <p>9 Q Good afternoon. Mr. Matson, you indicated that you</p> <p>10 signed that LOI that Mr. VerStandig was just referring to;</p> <p>11 is that correct?</p> <p>12 A Yes.</p> <p>13 Q And that letter essentially outlined the total terms of</p> <p>14 the potential future contract agreement between you and The</p> <p>15 Ruins to finish The Ruins project?</p> <p>16 A Yes.</p> <p>17 Q You would agree that one of those terms is that the BW</p> <p>18 be paid in full within 24 months of plan approval; is that</p> <p>19 correct?</p> <p>20 A Yes.</p> <p>21 Q Would you be willing to perform the completion work for</p> <p>22 The Ruins if you were not paid in full within 24 months?</p> <p>23 A Can you repeat that? Sorry.</p> <p>24 Q A material term of the LOI is that you'll be paid in</p> <p>25 full within 24 months. Yeah. It would be a breach of that</p>	<p style="text-align: right;">Page 197</p> <p>1 BY MR. HUSHKA:</p> <p>2 Q Mr. Matson, you said you started B&amp;W in 2020?</p> <p>3 A Yes, I believe that was a year.</p> <p>4 Q All right. Is \$575,000 your largest account receivable</p> <p>5 outstanding?</p> <p>6 A Currently, yes.</p> <p>7 MR. HUSHKA: No further questions, Your Honor.</p> <p>8 THE COURT: Mr. Feist, anything?</p> <p>9 MR. FEIST: No, Your Honor. Thank you.</p> <p>10 MS. STANLEY: Redirect?</p> <p>11 MR. VERSTANDIG: Your Honor, nothing in the way of</p> <p>12 redirect, but since I'm not there in person, my gratitude to</p> <p>13 Mr. Matson for driving up and dressing so nicely for court</p> <p>14 today. And my gratitude for his testimony.</p> <p>15 THE COURT: Yeah, and mine for coming in this</p> <p>16 weather. So thank you. You may be excused, which means you</p> <p>17 can leave now. Thank you.</p> <p>18 All right. Mr. VerStandig, next witness, or do</p> <p>19 you need a break?</p> <p>20 MR. VERSTANDIG: No, the next witness should be</p> <p>21 similarly quick. I'm actually going to be good to my word</p> <p>22 on speed for the first two. The debtor calls Jason Biggins.</p> <p>23 THE COURT: We're not seeing anybody, Mr.</p> <p>24 VerStandig. Is Jason on video conference? Oh, got it. Got</p> <p>25 it. Okay. Sorry.</p>

<p style="text-align: right;">Page 198</p> <p>1 MR. VERSTANDIG: Your Honor, if the clerk might</p> <p>2 swipe Mr. Biggins first.</p> <p>3 THE COURT: I want to make sure that he's got his</p> <p>4 microphone on. Can you say your name so I can hear you?</p> <p>5 MR. BIGGINS: Testing. This is Jason Biggins.</p> <p>6 THE COURT: Great. Thank you. Now, will you</p> <p>7 raise your right hand and this clerk will swear you.</p> <p>8 CLERK: Please state your name for the record.</p> <p>9 MR. BIGGINS: Jason Biggins.</p> <p>10 CLERK: Do you solemnly swear that the testimony</p> <p>11 you are about to give in this case will be the truth, the</p> <p>12 whole truth, and nothing but the truth, so help you God?</p> <p>13 MR. BIGGINS: Yes, I do.</p> <p>14 DIRECT EXAMINATION OF JASON BIGGINS</p> <p>15 BY MR. VERSTANDIG:</p> <p>16 Q Mr. Biggins, what do you do for a living?</p> <p>17 A I do a variety of environmental consulting work.</p> <p>18 Primarily, we do asbestos inspection, asbestos abatement,</p> <p>19 mold inspection, and a little bit of mold remediation work.</p> <p>20 Q In what geographic area do you do that work?</p> <p>21 A We work primarily in the state of South Dakota, rarely</p> <p>22 venturing outside of the state.</p> <p>23 Q Where are you? I don't need an exact address, but what</p> <p>24 city are you in at the moment?</p> <p>25 A Sioux Falls.</p>	<p style="text-align: right;">Page 200</p> <p>1 A We do on a limited basis. Perform mold mediation for</p> <p>2 some of the colleges and universities in South Dakota.</p> <p>3 Q Did Mr. Craig or The Ruins ever hire you to do mold</p> <p>4 remediation work?</p> <p>5 A I was not hired to do mold remediation.</p> <p>6 Q After you did your inspection, did you recommend to</p> <p>7 them that you be hired to do mold remediation?</p> <p>8 A I didn't believe remediation was necessary based on the</p> <p>9 inspection that I conducted.</p> <p>10 MR. VERSTANDIG: Thank you, Your Honor. I have</p> <p>11 nothing further for this witness.</p> <p>12 THE COURT: Cross-examination.</p> <p>13 MR. HUSHKA: Can I have a moment please, Your</p> <p>14 Honor?</p> <p>15 THE COURT: Sure, sure.</p> <p>16 MR. HUSHKA: As a point of order, Mr. VerStandig,</p> <p>17 the December 11, 2024, report, that's not in evidence</p> <p>18 anywhere. It's not an attachment turn exhibit to anything</p> <p>19 that I'm aware, correct?</p> <p>20 MR. VERSTANDIG: Sorry. I was muted and realized</p> <p>21 I had a millisecond delay. For clarity, we didn't introduce</p> <p>22 the report. I did not ask him about the contents of the</p> <p>23 report. I didn't ask him about any types of spores. I</p> <p>24 didn't ask him how spores are measured. That may have been</p> <p>25 a very quick examination, but that was more carefully done</p>
<p style="text-align: right;">Page 199</p> <p>1 Q Sioux Falls, you said?</p> <p>2 A Yes, correct.</p> <p>3 Q Are you familiar with a building called The Ruins?</p> <p>4 A Yes, I am.</p> <p>5 Q Have you ever visited The Ruins in person?</p> <p>6 A Yes, I have.</p> <p>7 Q When did you visit The Ruins?</p> <p>8 A I believe I conducted a mold inspection in The Ruins in</p> <p>9 winter of last year. Last winter, I think maybe December of</p> <p>10 '24.</p> <p>11 Q So just for clarity, approximately one year ago.</p> <p>12 A Yes, approximately.</p> <p>13 Q Why did you do a Mold inspection?</p> <p>14 A Jesse Craig asked me to conduct a mold inspection.</p> <p>15 Q Do you have any reason to believe that the inspection</p> <p>16 you did was going to be shared with anyone other than Mr.</p> <p>17 Craig?</p> <p>18 A No, I did not.</p> <p>19 Q Are you aware of anything related to the permitting</p> <p>20 process in Watertown, South Dakota?</p> <p>21 A I'm not.</p> <p>22 Q Were you made aware of anything related to how an</p> <p>23 inspection would interplay with permitting?</p> <p>24 A No. No, sir. Not at all.</p> <p>25 Q Okay. Do you perform mold remediation work?</p>	<p style="text-align: right;">Page 201</p> <p>1 on my part than I probably gave off.</p> <p>2 MR. HUSHKA: No questions.</p> <p>3 THE COURT: Mr. Feist, anything?</p> <p>4 MR. FEIST: No. Thank you.</p> <p>5 THE COURT: All right, then. Mr. Biggins, you can</p> <p>6 be excused, which means you get to hang up.</p> <p>7 MR. VERSTANDIG: Thank you very much, Mr. Biggins.</p> <p>8 My gratitude to you as well. Since we're not there in</p> <p>9 person, I don't get to shake your hand, but thank you for</p> <p>10 hanging around for a long day.</p> <p>11 MR. BIGGINS: Thank you, sir.</p> <p>12 MR. VERSTANDIG: Your Honor, if the court's</p> <p>13 inclined to take a break, this would be an opportune</p> <p>14 occasion. Our next witness will be our last witness.</p> <p>15 THE COURT: Okay. I would very much like to take</p> <p>16 a break. So how about we resume at 3:30?</p> <p>17 MR. VERSTANDIG: Thank you, Your Honor.</p> <p>18 (Off the record.)</p> <p>19 THE COURT: Okay. We are back on the record with</p> <p>20 Bankruptcy Case Number 24-30004, In re The Ruins. And when</p> <p>21 we broke, the debtors were getting ready to call their next</p> <p>22 witness.</p> <p>23 MR. VERSTANDIG: Thank you, Your Honor. The</p> <p>24 debtor calls Mulinda Craig.</p> <p>25 THE COURT: So, Ms. Craig, you may take the stand</p>

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<p>1 because you've already served as a witness in this case, and</p> <p>2 so I'm just going to remind you that you remain under oath,</p> <p>3 actually a witness related to this hearing. So you might</p> <p>4 have other hearings that you're invited to. And I won't re-</p> <p>5 swear, but for this time, I'm just going to remind you, and</p> <p>6 then I'm just going to ask you to state your name and answer</p> <p>7 the question. Do you remember that you remain under oath?</p> <p>8 MS. CRAIG: I do.</p> <p>9 THE COURT: Okay, and your name is?</p> <p>10 MS. CRAIG: Mindy Craig.</p> <p>11 THE COURT: All right. Mr. VerStandig, you may</p> <p>12 proceed.</p> <p>13 MR. HUSHKA: Your Honor, if I may briefly, as a</p> <p>14 point of order, is it okay with the court if I do objections</p> <p>15 while Ms. Stanley prepares an outline? We had anticipated</p> <p>16 Mr. Craig, not Ms. Craig. And so she can prepare. I don't</p> <p>17 want to be seen as double-teaming the witness, but just so</p> <p>18 she can prepare questions. If I can handle objections or</p> <p>19 does the court want one person to do the cross-examination</p> <p>20 objections?</p> <p>21 THE COURT: You know what? I am so not uptight</p> <p>22 about this stuff. You must have sensed that already. I</p> <p>23 just do your thing and I am --</p> <p>24 MR. HUSHKA: But you are an anomaly as it comes to</p> <p>25 that aspect. And so I just wanted to clarify ahead of --</p>	<p>1 Management. I don't remember from your original testimony</p> <p>2 if we covered this. Can you just establish your</p> <p>3 relationship with CP Business Management?</p> <p>4 A I am an owner in CP Business Management.</p> <p>5 Q Why did CP Business management stop managing The Lofts?</p> <p>6 A It was sold to a different owner.</p> <p>7 Q And you said it was sold in 2024? A moment ago, I</p> <p>8 believe.</p> <p>9 A Correct. March 21st.</p> <p>10 Q Okay. Do you know how much money it sold for?</p> <p>11 A The purchase price was \$5,750,000. And then you have</p> <p>12 to add back in a value of the TIF of \$800,000.</p> <p>13 Q When you say you have to add back in the value of the</p> <p>14 TIF, is that because the purchaser Agreed to pay the TIF.</p> <p>15 A Correct. It was a back ended TIF. So they received</p> <p>16 the benefit of paying no taxes or what the tax is?</p> <p>17 MR. HUSHKA: Objection, Your Honor, I believe this</p> <p>18 is beyond the scope. She's not a tax professional. I</p> <p>19 believe she's qualified as a department manager the first</p> <p>20 time around. I believe tax consequences would be on the</p> <p>21 scope of that expertise.</p> <p>22 MR. VERSTANDIG: Your Honor, I'm not going to ask</p> <p>23 Ms. Craig questions in her capacity as an expert on taxes or</p> <p>24 tax law or anything else. For now, I'm just -- I think my</p> <p>25 question was simply whether the purchaser agreed to pay the</p>
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<p>1 THE COURT: We don't have a jury here. And so for</p> <p>2 that reason, I am super flexible about these things.</p> <p>3 MR. HUSHKA: So thank you. Sorry, Mac.</p> <p>4 MR. VERSTANDIG: Not at all. And for what it's</p> <p>5 worth, if you two want to rotate one question apiece.</p> <p>6 THE COURT: You know, I find that lawyers really</p> <p>7 enjoy this opportunity.</p> <p>8 MS. STANLEY: I think I would suffer by</p> <p>9 comparison. So I don't know.</p> <p>10 THE COURT: Okay. You may proceed.</p> <p>11 MR. VERSTANDIG: Thank you, Your Honor.</p> <p>12 DIRECT EXAMINATION OF MULINDA CRAIG</p> <p>13 BY MR. VERSTANDIG:</p> <p>14 Q Ms. Craig, are you familiar with a property in or about</p> <p>15 Watertown, South Dakota, known as The Lofts?</p> <p>16 A I am.</p> <p>17 Q How is it that you're familiar with that property?</p> <p>18 A My husband, Jesse Craig, was a developer on the</p> <p>19 property. And then I managed it under CP Business</p> <p>20 Management.</p> <p>21 Q How long did you manage the property?</p> <p>22 A From the date of receiving the certificate of occupancy</p> <p>23 was August of 2020 until the sale of it, which was March</p> <p>24 21st of 2024.</p> <p>25 Q I think you had said that you did so under CP Business</p>	<p>1 TIF, which was sort of a yes or no type question.</p> <p>2 MR. HUSHKA: And she was testifying as to the tax</p> <p>3 consequences of it, which I believe there's nothing proper</p> <p>4 foundation or support for.</p> <p>5 THE COURT: Okay. The objection is sustained.</p> <p>6 You can just -- I think your answer -- well, what was your</p> <p>7 answer?</p> <p>8 THE WITNESS: The purchaser received the benefit</p> <p>9 of the TIF.</p> <p>10 BY MR. VERSTANDIG:</p> <p>11 Q Okay. Yes. So do you know if the purchaser agreed to</p> <p>12 pay money under a TIF.</p> <p>13 A Yes.</p> <p>14 Q How much money did the purchaser agree to pay?</p> <p>15 MR. HUSHKA: Objection, Your Honor, I'm going to</p> <p>16 say foundation. She was the manager. She wasn't the</p> <p>17 purchaser or the seller of this. And I think the best</p> <p>18 evidence of what was offered and agreed to be paid would be</p> <p>19 the actual purchase agreement documents.</p> <p>20 THE COURT: If she has memory of the purchase</p> <p>21 agreement documents, she can testify to that. So do you</p> <p>22 remember.</p> <p>23 THE WITNESS: Not specifically seeing the purchase</p> <p>24 agreement just would have been conversation.</p> <p>25 THE COURT: So then the objection is sustained.</p>

<p style="text-align: right;">Page 206</p> <p>1 BY MR. VERSTANDIG:</p> <p>2 Q Ms. Craig, how many units were in The Lofts at the time</p> <p>3 that it was sold?</p> <p>4 A Thirty-nine.</p> <p>5 Q Okay, and you had said a moment ago that the purchase</p> <p>6 price was 5.7, I believe.</p> <p>7 A 5.75, yes.</p> <p>8 Q Okay. I don't know if you've done the math or not. Do</p> <p>9 you happen to know what that.</p> <p>10 A Comes out to per unit it should be. Well, adding back</p> <p>11 in the value of the TIF, it should be 168,000 per unit.</p> <p>12 MR. HUSHKA: Again, Your Honor, I'm going to ask</p> <p>13 object and ask that they be stricken about adding back in</p> <p>14 the value of the TIF. I believe that that's beyond the</p> <p>15 scope of whether the TIF value should be added or if it's.</p> <p>16 That's calculations and construction beyond of what the per</p> <p>17 unit price is and whether or not the TIF can or should be</p> <p>18 added in or what the status of the TIF was in this sale.</p> <p>19 It's a valuation issue that would go to an appraiser, but</p> <p>20 not, I believe again, what qualification she has with this</p> <p>21 court.</p> <p>22 THE COURT: So the objection goes to credibility</p> <p>23 and you'll be able to highlight that on cross in her</p> <p>24 calculation. She's added it in. So you can criticize that</p> <p>25 or not going to credibility.</p>	<p style="text-align: right;">Page 208</p> <p>1 MR. HUSHKA: Your Honor, I'm going to object to</p> <p>2 the line of inquiry. I'm not sure of the relevance. I</p> <p>3 thought that this was going to go to whether it was a comp</p> <p>4 that was excluded from our expert, but I don't know what the</p> <p>5 relevance of comparing one building to the other is when she</p> <p>6 just testified that they're vastly different buildings in</p> <p>7 her own testimony. So I'm not sure what the relevance of</p> <p>8 what The Lofts is or isn't as to any issue pending before</p> <p>9 the court.</p> <p>10 MR. VERSTANDIG: Your Honor, Mr. Hushka is</p> <p>11 actually correct as to part of the objection. It's going to</p> <p>12 go to the exclusion of the comp. And we're trying to</p> <p>13 establish, having established a baseline per unit price, I'm</p> <p>14 simply trying to get Ms. Craig to note that if anything, it</p> <p>15 would trend more favorably insofar as The Ruins units are</p> <p>16 larger than The Lofts units and The Ruins parking facilities</p> <p>17 larger than The Lofts are parking facility. While I</p> <p>18 appreciate the rest of her comments, I wasn't really looking</p> <p>19 to rely on the rest of her comments, to be honest.</p> <p>20 THE COURT: I sustain, in part, So a comparison of</p> <p>21 the size was appropriate. And in terms of the other</p> <p>22 testimony, you were asking about whether parking was the</p> <p>23 equivalent, and I'm going to allow the witness to answer</p> <p>24 that question, overruling the objection.</p> <p>25 MR. VERSTANDIG: Thank you, Your Honor.</p>
<p style="text-align: right;">Page 207</p> <p>1 MR. HUSHKA: Thank you, Your Honor.</p> <p>2 THE COURT: So I am not going to strike the</p> <p>3 answer. New question.</p> <p>4 BY MR. VERSTANDIG:</p> <p>5 Q Ms. Craig, do you know who the purchaser was?</p> <p>6 A I do. It was The Lofts DTW LLC.</p> <p>7 Q Okay. Ms. Craig, are you familiar with the plans for</p> <p>8 The Ruins and what's being built as The Ruins?</p> <p>9 A I am.</p> <p>10 Q Are there any differences in terms of units or</p> <p>11 otherwise between The Lofts and The Ruins?</p> <p>12 A Very much so.</p> <p>13 Q Can you tell the court about those differences?</p> <p>14 A The layout of the units themselves are quite a bit</p> <p>15 different. The aesthetics are quite a bit different. The.</p> <p>16 The unit numbers between one bedroom or efficiencies or two</p> <p>17 bedrooms are quite a bit different. Obviously, The Ruins is</p> <p>18 63 units. The Lofts is 39 units. Location is quite a bit</p> <p>19 different. The parking situation is quite a bit different.</p> <p>20 Q So does one building have larger average units than the</p> <p>21 other?</p> <p>22 A Yes. The Ruins by far has much larger units than the</p> <p>23 loft does.</p> <p>24 Q Okay. Does one building have larger parking than the</p> <p>25 other?</p>	<p style="text-align: right;">Page 209</p> <p>1 THE WITNESS: I'm sorry, Mac. Could you please</p> <p>2 repeat what part you'd like me to answer?</p> <p>3 BY MR. VERSTANDIG:</p> <p>4 Q Of course. Do you know if one building has more</p> <p>5 generous parking than the other building?</p> <p>6 A Yes. And the parking structures themselves vary</p> <p>7 greatly. The Lofts parking is an underground parking</p> <p>8 garage. And the top of that would be a city owned parking</p> <p>9 lot. And then the building splits about half and half. So</p> <p>10 city owned parking lot and then the building itself, the</p> <p>11 structure of the building, apartments sit above the other</p> <p>12 half. But then you've got a big square and the parking</p> <p>13 garage is underneath the big square. The Ruins on the other</p> <p>14 hand, is an L shape and the parking level is the main level.</p> <p>15 So you don't have to drive up, you don't have to drive down.</p> <p>16 You just drive straight off the street into the parking</p> <p>17 garage.</p> <p>18 Q Does one of them have a larger parking facility than</p> <p>19 the other?</p> <p>20 A Yes. The Ruins counts for, oh boy, 53 parking spaces,</p> <p>21 if I remember correctly. And The Lofts accounts for 39</p> <p>22 parking spaces.</p> <p>23 Q Thank you. Ms. Craig, do you know if there's ever been</p> <p>24 any change to the plans to construct The Ruins?</p> <p>25 A There was a slight change and it was very quick in</p>

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<p>1 sequence. The first one that I recall, and I remember</p> <p>2 seeing it in my folder because I put old plans don't use was</p> <p>3 September, mid September of 2021 from Terry Stroh</p> <p>4 Architects. And they were changed literally. I think it</p> <p>5 was two weeks later, September 30th of 2021, by Terry Stroh</p> <p>6 Architects, that removed part of the commercial space, if</p> <p>7 that's what we want to call it, that the city had requested</p> <p>8 as part of the construction.</p> <p>9 They have the City Park that sits right in the L of The</p> <p>10 Ruins and the commercial space then that the city wanted or</p> <p>11 has a lease on for a dollar per year is a warming house and</p> <p>12 public bathrooms. And they decided that they did not need</p> <p>13 that much space. So instead of it being following the</p> <p>14 building footprint in L-shaped commercial public space, they</p> <p>15 just needed a little straight shot. So smaller bathrooms,</p> <p>16 smaller warming house. So it removed the bottom L of the L.</p> <p>17 Q To be clear, you reference this as city space, meaning</p> <p>18 it's being leased to the city of Watertown.</p> <p>19 A Correct. For a dollar.</p> <p>20 Q A dollar a year, a dollar a week, a dollar a month?</p> <p>21 A A dollar per year.</p> <p>22 Q Good. Did the amount being paid under the lease change</p> <p>23 when the size of the space changed?</p> <p>24 A It did not. It did not.</p> <p>25 Q Stole the full house?</p>	<p>1 testimony.</p> <p>2 MR. VERSTANDIG: We're not looking for a separate</p> <p>3 answer and we're happy with that. Thank you, Mr. Hushka.</p> <p>4 MR. HUSHKA: No problem.</p> <p>5 THE COURT: That's good.</p> <p>6 BY MR. VERSTANDIG:</p> <p>7 Q Ms. Craig, is there any reason your testimony would</p> <p>8 have changed between the time you gave that and today?</p> <p>9 A I don't recall what my exact answer was. And I would</p> <p>10 question whether or not it was stabilization period or what</p> <p>11 I felt stable the lease up period would be. That's my only</p> <p>12 hesitation.</p> <p>13 THE COURT: Did you testify to both?</p> <p>14 MR. VERSTANDIG: I don't have the transcript.</p> <p>15 THE COURT: No, I know I'm looking at Mr. Hushka.</p> <p>16 MR. HUSHKA: I can read the transcript in if the</p> <p>17 court wants. Give me one second pulling it up.</p> <p>18 THE COURT: That would be very helpful. Thank</p> <p>19 you.</p> <p>20 MR. HUSHKA: Beginning on Line 13:</p> <p>21 "A Once it's stabilized in full or has an</p> <p>22 acceptable occupancy rate of less than 5 percent.</p> <p>23 Vacancy rate. I'm sorry, of less than 5 percent. The</p> <p>24 market rents that I anticipate to be able to be</p> <p>25 charged. The unit should be bring in. I'm going to</p>
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<p>1 A Yes.</p> <p>2 Q Okay. Did the size of any of the residential units to</p> <p>3 be leased change?</p> <p>4 A Not that I specifically recall or remember. The</p> <p>5 layouts are pretty much the same. I should back up one</p> <p>6 statement. The only other change I recall seeing or having</p> <p>7 been part of was the. The janitorial closets were very,</p> <p>8 very large, abnormally large and knowing what I know from</p> <p>9 The Lofts, Parkside, Generations, we definitely do not need</p> <p>10 that much space for janitorial. So they were converted into</p> <p>11 rentable stores, storage units where tenants could have an</p> <p>12 extra space for decor, storage in general, whatever have</p> <p>13 you. And then lease those per month.</p> <p>14 Q Would that lead to more or less lease revenue on a per</p> <p>15 month basis?</p> <p>16 A More.</p> <p>17 MR. VERSTANDIG: Your Honor, with my next two</p> <p>18 questions, if there's an asked and answered objection, I'm</p> <p>19 going to shrug and say I just don't remember if Ms. Cathcart</p> <p>20 covered it. And I recognize that.</p> <p>21 BY MR. VERSTANDIG:</p> <p>22 Q Ms. Craig, do you know how long it would take to lease</p> <p>23 up The Ruins?</p> <p>24 MR. HUSHKA: Objection, asked and answered. I can</p> <p>25 -- it's available at Page 162, Lines 10 To 12 of her prior</p>	<p>1 use round off numbers of 80,000 months plus, give or</p> <p>2 take a little bit. By the time all expenses are</p> <p>3 accounted for and paid for every month, there should be</p> <p>4 roughly 60,000 a month in cash flow or net cash flow.</p> <p>5 That's not including the debt service."</p> <p>6 That's to Line 22.</p> <p>7 "And I realized that it was the timeline which</p> <p>8 begins at 8. I think from what I've seen, my</p> <p>9 knowledge, definitely not an expertise in this area by</p> <p>10 any means. I'm not a banker by any means, but it would</p> <p>11 roughly be 18 months. Anywhere from a year to 18</p> <p>12 months.</p> <p>13 BY MR. VERSTANDIG:</p> <p>14 Q Ms. Craig, is it still -- so your testimony that would</p> <p>15 take a year and 18 months to lease up the property?</p> <p>16 A Not to fully lease up. And that is. I apologize. I</p> <p>17 don't know what that question was right before Mr. Hushka</p> <p>18 read my answer.</p> <p>19 MR. HUSHKA: I could identify it to the court.</p> <p>20 THE COURT: Sure. Let's find out what the</p> <p>21 question is.</p> <p>22 MR. HUSHKA: The question posed at lines 1 to 2:</p> <p>23 "Q What is the anticipated profit margin for the</p> <p>24 completed Ruins project?"</p> <p>25 BY MR. VERSTANDIG:</p>



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<p>1 Q Okay, in that case, it sounds like it may have been</p> <p>2 partially answered but not asked. So if the court will</p> <p>3 indulge, I would ask how long from the certificate of</p> <p>4 occupancy would it take to lease up the property.</p> <p>5 A Based off of the current rental market that I'm my</p> <p>6 daily. What I look like at daily on my computer screen and</p> <p>7 rent out for Parkside and Generations. And then being part</p> <p>8 of the lease up period for Parkside and Generations, I'd</p> <p>9 have to say it's far less than the 18 months to</p> <p>10 stabilization period. I don't want to give 100 percent</p> <p>11 guarantee, but I would say it's 95 percent sure it would be</p> <p>12 less than 18 months and 90 percent sure it'd be less than a</p> <p>13 year and probably 70 percent less than six months.</p> <p>14 MR. VERSTANDIG: Madam Clerk, could we please pull</p> <p>15 up Document 182-2? If we scroll down, it's going to be the</p> <p>16 one that says Exhibit 2, photographs of property at the top.</p> <p>17 It's probably a decent ways down. It's past the floor.</p> <p>18 Thank you. Madam Clerk, could you please just sort of</p> <p>19 slowly scroll through the three pages that are photographs?</p> <p>20 Thank you.</p> <p>21 BY MR. VERSTANDIG:</p> <p>22 Q Ms. Craig, do you recognize these photographs?</p> <p>23 A I do.</p> <p>24 Q What are they?</p> <p>25 A They are photos of the south-facing facade of The</p>	<p>1 receiving the photographs?</p> <p>2 MR. HUSHKA: No, Your Honor.</p> <p>3 THE COURT: The court receives the photographs.</p> <p>4 So that would be just the three photographs in Docket 181 --</p> <p>5 MR. VERSTANDIG: 182, Exhibit 2.</p> <p>6 THE COURT: 182. Got it.</p> <p>7 (Exhibit 182-2 entered into evidence)</p> <p>8 MR. VERSTANDIG: I guess for housekeeping and</p> <p>9 clarity, all of the exhibits that had originally been marked</p> <p>10 for this hearing were dealt with either by stipulation or</p> <p>11 otherwise during sort of the original portion of the</p> <p>12 hearing. For the continued hearing, we marked six</p> <p>13 additional exhibits. The first is the second amended plan.</p> <p>14 The second's the photographs, and the last four are emails.</p> <p>15 I believe the first and the second are now in evidence and</p> <p>16 we do not intend to move Exhibits 3 to 6.</p> <p>17 THE COURT: All right. So what I just did was</p> <p>18 receive Exhibit 182, which are three photographs that's</p> <p>19 received in.</p> <p>20 MR. VERSTANDIG: Yes.</p> <p>21 THE COURT: Okay.</p> <p>22 MR. VERSTANDIG: For clarity and fairness, I think</p> <p>23 it's 182-2. There are 182 has several subparts, and we are</p> <p>24 not moving forward.</p> <p>25 THE COURT: Got it. 182-2. Thank you.</p>
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<p>1 Ruins.</p> <p>2 Q Are you familiar with what the south facing facade of</p> <p>3 The Ruins looks like as we sit here today?</p> <p>4 A Yes.</p> <p>5 Q Are these photos a true and accurate depiction of the</p> <p>6 south facing facade of The Ruins?</p> <p>7 A Unless there has been some severe wind in Watertown</p> <p>8 this morning, it should look the exact same.</p> <p>9 MR. VERSTANDIG: Your Honor, I'd move Exhibit 2</p> <p>10 into evidence.</p> <p>11 THE COURT: I'm sorry, I didn't hear that.</p> <p>12 MR. VERSTANDIG: Your Honor, at this time, we</p> <p>13 would move what we've marked as Exhibit Number 2 for the</p> <p>14 continued portion of this hearing into evidence.</p> <p>15 THE COURT: This isn't already received?</p> <p>16 MR. HUSHKA: This was attached to the plans. Mac,</p> <p>17 is that what you just had pulled up to the proposed plan</p> <p>18 anyway?</p> <p>19 MR. VERSTANDIG: No. This documentary is all of</p> <p>20 the exhibits that we marked for this hearing. The continued</p> <p>21 portion thereof. The first exhibit happens to be the plan.</p> <p>22 And then the clerk scrolled down to Part 2, which is the</p> <p>23 photographs. So the plan is in, but the photographs are not</p> <p>24 presently in.</p> <p>25 THE COURT: Okay. Any objection to the court</p>	<p>1 MR. VERSTANDIG: Madam Clerk, that's all I have</p> <p>2 with that exhibit.</p> <p>3 BY MR. VERSTANDIG:</p> <p>4 Q Ms. Craig, did you hear some testimony earlier today</p> <p>5 about "luxury expenditures"?</p> <p>6 A I did.</p> <p>7 Q Okay. Are you familiar with what some of those</p> <p>8 putatively luxurious expenditures are?</p> <p>9 A I am.</p> <p>10 Q Could you explain that to the court?</p> <p>11 A There were a handful of arrow expenditures, and</p> <p>12 majority of those stem from other projects that my husband</p> <p>13 has been is part of development projects, scoping out</p> <p>14 different sites and different locations for different</p> <p>15 development groups that have hired him to go out, scope out,</p> <p>16 find places to build. And then he reports back with his</p> <p>17 findings or visit sites quite often through city meetings</p> <p>18 and official meetings and different contractor meetings and</p> <p>19 whatnot. So some of those majority of those expenses were</p> <p>20 reimbursed by those outside developer entities,</p> <p>21 corporations, businesses.</p> <p>22 Q This is a really obvious question, but just for clarity</p> <p>23 of the record, who is your husband?</p> <p>24 A Jesse Craig.</p> <p>25 Q Okay. Ms. Craig, you had mentioned earlier that you</p>

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<p>1 own CP Business Management, correct?</p> <p>2 A Yes.</p> <p>3 Q Is CP Business Management a creditor in this case?</p> <p>4 A Yes.</p> <p>5 Q I'm not sure if I paused my own witness or didn't get</p> <p>6 an answer that I just didn't hear.</p> <p>7 A Oh, I think your video glitched. Sorry, Mac.</p> <p>8 Q I'm so sorry.</p> <p>9 A No, that's okay.</p> <p>10 Q Okay.</p> <p>11 Q Thank you.</p> <p>12 Q And does CP Business Management favor conversion of</p> <p>13 this case to Chapter 7 or retention in Chapter 11?</p> <p>14 A Obviously retention.</p> <p>15 Q Thank you.</p> <p>16 A Yeah.</p> <p>17 MR. VERSTANDIG: Your Honor, I have nothing</p> <p>18 further for this witness.</p> <p>19 THE COURT: Cross-examination?</p> <p>20 CROSS-EXAMINATION OF MULINDA CRAIG</p> <p>21 BY MS. STANLEY:</p> <p>22 Q Ms. Craig, you testified you have never seen a copy of</p> <p>23 the purchase agreement for The Lofts; is that correct?</p> <p>24 A I don't believe in its entirety. I believe I've seen</p> <p>25 bits and pieces, but I don't believe I've fully reviewed a</p>	<p>1 testified that there are reasons he would not have seen a</p> <p>2 sale. But he didn't testify as to any specific search or</p> <p>3 attempted search from The Lofts.</p> <p>4 THE COURT: Sustained.</p> <p>5 BY MS. STANLEY:</p> <p>6 Q Do you know if the TIF for The Lofts had got previously</p> <p>7 been assigned? Do you have any personal knowledge of that?</p> <p>8 A I don't have personal knowledge of the TIF previously</p> <p>9 been assigned.</p> <p>10 Q Were you present when Mr. Luther indicated that he</p> <p>11 personally measured the footprint of The Ruins building</p> <p>12 using a wheel?</p> <p>13 A I don't recall his exact words of how he measured it,</p> <p>14 but I do recall him saying that he personally measured.</p> <p>15 Q Have you yourself personally measured the footprint of</p> <p>16 The Ruins building?</p> <p>17 A I have not.</p> <p>18 Q You just indicated that there was a change in the plans</p> <p>19 of The Ruins at one point? Do you personally know if that</p> <p>20 information was ever conveyed to the bank or provided those</p> <p>21 plans were changed? The changed plans. I'm sorry, that was</p> <p>22 -- that was bad.</p> <p>23 A I can't say if the updated plans had been provided. I</p> <p>24 do know from overhearing conversations between Jesse and</p> <p>25 Charles that they --</p>
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<p>1 full purchase agreement.</p> <p>2 Q Isn't it true that the purchase was of a membership</p> <p>3 interest in The Lofts LLC and not actually of the real</p> <p>4 estate itself?</p> <p>5 A Don't they go hand in hand?</p> <p>6 Q Well, if you -- let's think about the Vogel Law Firm</p> <p>7 has a building that's three, four blocks that far. Is it</p> <p>8 different to purchase a membership interest and be part of</p> <p>9 the Vogel Law Firm building partnership? Is it different to</p> <p>10 do that and be part of the partnership or to actually</p> <p>11 purchase the dirt, the building itself? Those are different</p> <p>12 things, aren't they?</p> <p>13 A Yes. And the purchaser purchased the dirt, the</p> <p>14 buildings, the doors, the leases? Yes.</p> <p>15 Q Well, my question though is the members buying a</p> <p>16 membership interest in The Lofts LLC as an entity. Isn't</p> <p>17 that what that's purchase agreement was?</p> <p>18 A Yeah. I'm not even going to speculate or say yes or</p> <p>19 no.</p> <p>20 Q Were you present yesterday when Mr. Luther indicated</p> <p>21 that he did not find a sale document in the real estate</p> <p>22 records?</p> <p>23 A I was.</p> <p>24 MR. VERSTANDIG: Objection, mischaracterizes the</p> <p>25 record. That was not Mr. Luther's testimony. Mr. Luther</p>	<p>1 Q That would be hearsay. So I asked if do you personally</p> <p>2 know?</p> <p>3 THE COURT: Okay. The answer do you personally</p> <p>4 know is the question. Whether it's hearsay is a whole</p> <p>5 different thing. So we'll just wait for a new question.</p> <p>6 BY MS. STANLEY:</p> <p>7 Q Do you have any idea if the terms of The Lofts sale</p> <p>8 were publicly public information?</p> <p>9 A That is a question unfortunately I wouldn't be able to</p> <p>10 answer.</p> <p>11 Q Ms. Craig, you gave sworn testimony in this matter at</p> <p>12 the beginning of the month, correct?</p> <p>13 A I believe so.</p> <p>14 Q And during that sworn testimony you were asked about</p> <p>15 the anticipated profit margins, correct?</p> <p>16 A Anticipated profit margins of The Ruins? Yes.</p> <p>17 Q That's correct, isn't it?</p> <p>18 A I believe so.</p> <p>19 Q And in response to the question, which I believe Mr.</p> <p>20 Hushka just read out, you volunteered that the question was,</p> <p>21 "loaded" because it would depend if it's filled up or it's</p> <p>22 fit, stable and or stabilized.</p> <p>23 A That's true.</p> <p>24 Q Okay, and you testified it would be roughly 18 months,</p> <p>25 anywhere from a year to 18 months to stabilize; is that</p>

<p style="text-align: right;">Page 222</p> <p>1 correct?</p> <p>2 A Yep. That matches what I said today.</p> <p>3 Q And that was before any testimony regarding whether The</p> <p>4 Ruins would be able to generate sufficient money to cash</p> <p>5 flow.</p> <p>6 A Are you asking cash flow regarding P &amp; I or strictly</p> <p>7 interest only during a stabilization period?</p> <p>8 Q It would be debt service.</p> <p>9 A So after it's been stabilized, yes. Okay, I apologize.</p> <p>10 Can you repeat your -- what was your question? Which one</p> <p>11 was it?</p> <p>12 Q That was before there was any testimony regarding</p> <p>13 whether The Ruins would be able to generate sufficient money</p> <p>14 to cash flow for debt service.</p> <p>15 THE COURT: I'll wait for the objection.</p> <p>16 MR. VERSTANDIG: Misstates the record in a sort of</p> <p>17 weirdly meta fashion. She's asking if the question that</p> <p>18 would have. My friend is asking if the question that went</p> <p>19 to cash flow was posed before or after questions about cash</p> <p>20 flow, and that is, at best, ambiguous.</p> <p>21 BY MS. STANLEY:</p> <p>22 Q Well, have you changed your testimony today that now</p> <p>23 that we have a cash flow being specifically identified as a</p> <p>24 problem, are you now testifying that it's going to take</p> <p>25 significantly less time to stabilize?</p>	<p style="text-align: right;">Page 224</p> <p>1 Craig Properties?</p> <p>2 A 2014. When our twins were born would have been the</p> <p>3 last time I did any work of any substance.</p> <p>4 Q So at least 10 years ago?</p> <p>5 A Yes.</p> <p>6 Q Okay, and did you -- if we scroll through some of these</p> <p>7 documents that are after the summary page. Oh, I'm sorry.</p> <p>8 I apologize. This should be 98. If we continue scrolling</p> <p>9 through some of these, do these appear to be payments made</p> <p>10 to you directly from Craig Development.</p> <p>11 MR. VERSTANDIG: Objection. Scope.</p> <p>12 MS. STANLEY: Well, I'm pretty sure you brought up</p> <p>13 information on the Exhibit 177.</p> <p>14 MR. VERSTANDIG: I asked a very narrow question</p> <p>15 about luxury expenses. That was the only portion of this we</p> <p>16 went into.</p> <p>17 MS. STANLEY: I think it goes to her credibility.</p> <p>18 THE COURT: It does, but the objection is to</p> <p>19 scope. And so you would have to recall her if you wanted to</p> <p>20 ask about. I don't recall her testifying either at the</p> <p>21 first time or this time about any payment, unless you can</p> <p>22 scroll and look in the previous testimony and remind me</p> <p>23 where that is. But it appears to be out of scope unless you</p> <p>24 have a specific memory of something she testified to. So</p> <p>25 I'm going to sustain the objection until you recall</p>
<p style="text-align: right;">Page 223</p> <p>1 A My testimony before, and my testimony today was a year</p> <p>2 to 18 months. Today I said it could be 18 months. I'm 95</p> <p>3 percent certain it will be stabilized in 18 months. I'm</p> <p>4 certain it would be filled within a year. And then I went</p> <p>5 back down to six months stabilized.</p> <p>6 Q You didn't say six months the first time you testified,</p> <p>7 though, correct?</p> <p>8 A Correct.</p> <p>9 THE COURT: Okay. So there's a whole new question</p> <p>10 asked, so I'm assuming then the original objection will be</p> <p>11 sustained because it was a whole new thing. Just to clear</p> <p>12 up that record part.</p> <p>13 MS. STANLEY: I apologize. I'm bad at closing</p> <p>14 that loop.</p> <p>15 THE COURT: It's a hard thing to do.</p> <p>16 BY MS. STANLEY:</p> <p>17 Q Ms. Craig, do you work for Craig Development?</p> <p>18 A I do not.</p> <p>19 MS. STANLEY: Sharon, can we please pull up</p> <p>20 Exhibit 177 or ECF 177.</p> <p>21 BY MS. STANLEY:</p> <p>22 Q And while she does that, Ms. Craig, do you work for</p> <p>23 Craig Properties?</p> <p>24 A Not any longer.</p> <p>25 Q And what was the time frame when you quit working at</p>	<p style="text-align: right;">Page 225</p> <p>1 something and then you can circle back to it.</p> <p>2 BY MS. STANLEY:</p> <p>3 Q It's been a long day yet, but I believe Mr. VerStandig</p> <p>4 asked you some questions about payments made to CP Business</p> <p>5 Management. Am I remembering that correctly?</p> <p>6 MR. VERSTANDIG: I don't -- I guess objection.</p> <p>7 Mischaracterizes the record. My question about CP Business</p> <p>8 Management were what her relationship is with it and whether</p> <p>9 or not it's a creditor in this case.</p> <p>10 THE COURT: Sustained.</p> <p>11 THE WITNESS: Can I get that question?</p> <p>12 MR. VERSTANDIG: (Indiscernible) I don't think</p> <p>13 (indiscernible) --</p> <p>14 MS. STANLEY: Okay. Can I have two minutes? I</p> <p>15 think we're almost done.</p> <p>16 THE COURT: Absolutely.</p> <p>17 BY MS. STANLEY:</p> <p>18 Q Just a point of clarification. I think you testified</p> <p>19 one of the buildings in Watertown has a warming house.</p> <p>20 A The Ruins has a plan to have a warming house.</p> <p>21 Q Yes, The Ruins does. Okay. For some reason, I thought</p> <p>22 you said Parkside, so I was just clarifying that one.</p> <p>23 A It's meant for the people that are visiting the park in</p> <p>24 the wintertime to go and warm up as part of the city public</p> <p>25 space. So it's not a true house in the sense of separate</p>

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<p>1 structure. It's part of the -- half of the L for people to</p> <p>2 go.</p> <p>3 MS. STANLEY: Okay, I don't -- nothing further.</p> <p>4 THE COURT: Okay. Mr. Feist, any questions?</p> <p>5 MR. FEIST: I do not have any.</p> <p>6 THE COURT: Thank you.</p> <p>7 Redirect, Mr. VerStandig?</p> <p>8 MR. VERSTANDIG: None, Your Honor.</p> <p>9 THE COURT: All right, you may be excused again.</p> <p>10 MS. CRAIG: Thank you.</p> <p>11 MR. VERSTANDIG: My same gratitude to Ms. Craig,</p> <p>12 but I will actually speak to her later.</p> <p>13 Your Honor, the debtor rests (indiscernible)</p> <p>14 rebuttal.</p> <p>15 MR. HUSHKA: Nothing, Your Honor.</p> <p>16 THE COURT: Okay. So the record is closed. Okay.</p> <p>17 What I'm going to invite you to do is after this hearing's</p> <p>18 over, I'd like you to stay on the line, Mr. VerStandig.</p> <p>19 Now, Mr. Feist, if you'd like to.</p> <p>20 And also for counsel for Red River State Bank to</p> <p>21 until you've gone through the exhibit list with Ms. Horsager</p> <p>22 to make sure that it's consistent with what your memory is.</p> <p>23 I just want to make sure that we have all of the same</p> <p>24 records.</p> <p>25 MR. HUSHKA: Your Honor, I guess as a point of</p>	<p>1 you did by summary fashion and there were some that I</p> <p>2 received, you know, a play by play. And so the weight you</p> <p>3 think I should give them and the importance to any</p> <p>4 particular element, particularly since you know now that I</p> <p>5 am going to consider dismissal, conversion and possible</p> <p>6 unusual circumstances. So I made that perfectly clear and I</p> <p>7 anticipate to hear from you about that. How much time? So</p> <p>8 let's begin with the movant. How much time would you like?</p> <p>9 MR. HUSHKA: Your Honor, I believe Ms. Tanabe is</p> <p>10 going to be our principal brief, or at least the initial</p> <p>11 draft on that. So I see she just messaged me two weeks, so</p> <p>12 just because of the holidays and whatnot. I wonder if it's</p> <p>13 unrealistic to do it faster than two weeks, but I flexible.</p> <p>14 THE COURT: Your thoughts, Mr. VerStandig?</p> <p>15 MR. VERSTANDIG: Your Honor, the debtor's fine</p> <p>16 with two weeks. I think the follow-up question would be</p> <p>17 simultaneous or successive. And I don't want to misstate</p> <p>18 anything.</p> <p>19 My understanding at the close of the last hearing</p> <p>20 had been that we were looking at simultaneous, which is</p> <p>21 certainly fine with the debtor. If the movant would prefer</p> <p>22 to do successive closings where they close, we respond and</p> <p>23 they rebut. We're also fine with that and we're going to be</p> <p>24 deferential one way or another. But two weeks would be</p> <p>25 fine, assuming that's also our deadline.</p>
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<p>1 clarification, just to clear it up for the record, I don't</p> <p>2 know if you asked Mr. Feist if he had any witnesses or</p> <p>3 exhibits he wanted to put on.</p> <p>4 THE COURT: I didn't ask him.</p> <p>5 Mr. Feist, witnesses or exhibits?</p> <p>6 MR. FEIST: I do not.</p> <p>7 THE COURT: Okay.</p> <p>8 MR. FEIST: I do not. But I appreciate you</p> <p>9 asking. Thanks.</p> <p>10 THE COURT: Yes. Thank you. I thought I might</p> <p>11 have said something earlier in the hearing.</p> <p>12 MR. HUSHKA: I think you did the first time</p> <p>13 around.</p> <p>14 THE COURT: You're right. But this is a whole</p> <p>15 different substantive area. And I'm also very grateful for</p> <p>16 those reminders. So thank you. Anytime you feel welcome to</p> <p>17 do that.</p> <p>18 Okay. We had visited briefly at the close of the</p> <p>19 last hearing about closing argument and whether you wanted</p> <p>20 to present something today or in writing or both. I feel</p> <p>21 like given the days in between and the sheer number of</p> <p>22 exhibits that my preference might be for writing is your</p> <p>23 preference. It looks like all parties agree writing is</p> <p>24 good.</p> <p>25 Highlighting the exhibits, there were some that</p>	<p>1 THE COURT: So if simultaneous, then for sure I</p> <p>2 would grant rebuttal. Let's look where that takes us. I've</p> <p>3 got to see the calendar. So two weeks from today, which is</p> <p>4 the 25th, would be the 9th and then rebuttal by the 16th.</p> <p>5 MR. VERSTANDIG: I think that's right. That would</p> <p>6 mean both sides are rebutting each other. There's no</p> <p>7 exclusive right to rebuttal, correct?</p> <p>8 THE COURT: I'm sorry. Reply. I don't mean</p> <p>9 rebuttal. Reply.</p> <p>10 MR. VERSTANDIG: Thank you.</p> <p>11 THE COURT: It would be simultaneous and then a</p> <p>12 reply, if that's your preference. Do you have a preference?</p> <p>13 MS. TANABE: That's fine.</p> <p>14 MR. VERSTANDIG: That works for the debtor, Your</p> <p>15 Honor.</p> <p>16 THE COURT: Great. So the 9th and then the 16th,</p> <p>17 you agree on those dates?</p> <p>18 MS. TANABE: Correct, yes.</p> <p>19 THE COURT: Okay. Mr. VerStandig, I'm sorry, I</p> <p>20 didn't hear you.</p> <p>21 MR. VERSTANDIG: Yes, we agree on those dates.</p> <p>22 And just for clarity, especially with this group, no page</p> <p>23 limit, correct?</p> <p>24 THE COURT: You know, I made that mistake in Pro</p> <p>25 Mark. No page limit. That's correct. I'll let you --</p>

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<p>1 MR. VERSTANDIG: My apologies about that in Pro</p> <p>2 Mark.</p> <p>3 THE COURT: No, yeah. No, actually, no page</p> <p>4 limit. It's complicated. So if you can do it concisely,</p> <p>5 great. Two weeks isn't a lot of time. So I expect a lot of</p> <p>6 paper.</p> <p>7 MR. VERSTANDIG: Thank you, Your Honor.</p> <p>8 THE COURT: All right. Okay. Anything further?</p> <p>9 We have our deadlines. We have our record closed.</p> <p>10 MR. VERSTANDIG: The debtor wishes everyone a</p> <p>11 Happy Thanksgiving.</p> <p>12 THE COURT: Happy Thanksgiving to you. All right.</p> <p>13 That's it. This matter stands in recess. You can remain</p> <p>14 seated and put away your things. I'm going to do the same.</p> <p>15 MR. HUSHKA: Your Honor, if you could wait just a</p> <p>16 second, I want to clarify something with Mr. VerStandig. We</p> <p>17 might need to reopen the record if the court needs a</p> <p>18 stipulation on the record.</p> <p>19 Mac, have you looked into that issue regarding the</p> <p>20 adversary complaint yet and/or are you willing to stipulate</p> <p>21 to an extension for our answer or motion to dismiss deadline</p> <p>22 in light of that issues that we've discussed? Not trying to</p> <p>23 involve the court in any of those discussions, but I just</p> <p>24 want to know if I needed to be finishing our answer and</p> <p>25 counter over the Thanksgiving holiday or if you're going to</p>	<p>1 motion to dismiss, which we're trying to avoid, and work</p> <p>2 something out.</p> <p>3 THE COURT: Okay.</p> <p>4 MR. HUSHKA: On a small issue.</p> <p>5 MR. VERSTANDIG: For clarity on the stipulation,</p> <p>6 the debtor/plaintiff does not concede that there would be a</p> <p>7 right to file a motion to dismiss. That would be a</p> <p>8 contested issue if one was filed.</p> <p>9 But Mr. Hushka, without speaking to the sum and</p> <p>10 substance of it, has raised an interesting legal question,</p> <p>11 and I owe him an educated response as to whether we concur</p> <p>12 with his legal position or take issue with it. And I think</p> <p>13 that would be dispositive of whether or not we would then</p> <p>14 argue over the scope of the motion to dismiss.</p> <p>15 THE COURT: Okay. So here's the deal. I'm going</p> <p>16 to let you fashion a written pleading and just assure you</p> <p>17 that I will grant it.</p> <p>18 MR. HUSHKA: Okay.</p> <p>19 THE COURT: Okay. All right.</p> <p>20 MR. HUSHKA: I just didn't want to be defaulted.</p> <p>21 MR. VERSTANDIG: Clarity with the record running,</p> <p>22 especially knowing that there's about to be a holiday.</p> <p>23 Mr. Hushka, I am going to agree to a two-week</p> <p>24 extension to anything within the scope of reason. And you</p> <p>25 ought not take a moment away from turkey, stuffing or any</p>
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<p>1 put a stipulation on the record that we're still working</p> <p>2 that out.</p> <p>3 MR. VERSTANDIG: So the honest answer is I started</p> <p>4 to do the research and didn't get deep enough. But the</p> <p>5 equally honest answer is I have no interest in torturing you</p> <p>6 over a holiday. So if you indicate what extension you want</p> <p>7 for your responsive pleading, as long as it ends with 2025,</p> <p>8 I'm going to be amenable.</p> <p>9 MR. HUSHKA: Stipulate to the -- I think it'd be</p> <p>10 due on the 3rd. An additional two weeks when we maybe</p> <p>11 figure that out, to the 17th of December?</p> <p>12 MR. VERSTANDIG: That's perfectly agreeable.</p> <p>13 MR. HUSHKA: But we can try and get it done</p> <p>14 sooner.</p> <p>15 MR. VERSTANDIG: Yeah.</p> <p>16 MR. HUSHKA: Would you want that stipulation in</p> <p>17 writing, Your Honor, or just on the record or care one way</p> <p>18 or the other?</p> <p>19 THE COURT: Would you remind me the adversary</p> <p>20 number so that Sharon and I could docket this properly?</p> <p>21 MR. HUSHKA: Certainly. The Adversary Number is</p> <p>22 25-07009.</p> <p>23 THE COURT: Okay, and it's a stipulated motion for</p> <p>24 an extension of time to?</p> <p>25 MR. HUSHKA: File either a -- file an answer or</p>	<p>1 cranberries, knowing that that is out there.</p> <p>2 MR. HUSHKA: Appreciate it. Thank you.</p> <p>3 THE COURT: Okay. So you can go ahead and confer,</p> <p>4 or if you want to just go ahead and list the exhibits,</p> <p>5 Sharon, that were received and the counsel can follow along.</p> <p>6 Yeah. Let's just do it on the record. Leave it running.</p> <p>7 Okay. Yeah, you can go up. I'm just going to pick up my</p> <p>8 papers.</p> <p>9 CLERK: This is going off of the amended exhibit</p> <p>10 list?</p> <p>11 THE COURT: Yeah. Doc 180.</p> <p>12 CLERK: One-eighty. Okay.</p> <p>13 THE COURT: Okay.</p> <p>14 CLERK: I show 59, 60-A, B and C, 84, 85, 86, 95,</p> <p>15 95-2, 95-3 --</p> <p>16 MS. STANLEY: I'm sorry. Are we looking at, like,</p> <p>17 from the beginning of these hearings or just the new ones?</p> <p>18 Because --</p> <p>19 MR. HUSHKA: The very beginning.</p> <p>20 MS. STANLEY: From the very beginning, I have, you</p> <p>21 know, like, 86, 87 is the declaration of D&amp;M Industries.</p> <p>22 Those were all stipulated two in the prior one.</p> <p>23 CLERK: Yeah. I have that.</p> <p>24 MR. VERSTANDIG: For what it's worth, I agree that</p> <p>25 87, 88, 89, 90, 91 were all stipulated to.</p>

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<p>1 MS. STANLEY: I tried to keep the X on the second</p> <p>2 column if they'd previously been stipulated to.</p> <p>3 CLERK: Okay. So, yes, I have 86, 87, 88, 89.</p> <p>4 MS. STANLEY: Yep.</p> <p>5 CLERK: ECF 90, 91, 96.</p> <p>6 MS. STANLEY: And then I think it was 95-1, 95-2</p> <p>7 and 95-3.</p> <p>8 CLERK: Yes. Correct.</p> <p>9 MS. STANLEY: Agree with that.</p> <p>10 MS. TANABE: Agreed.</p> <p>11 CLERK: Ninety-six, 97.</p> <p>12 MS. STANLEY: Yes.</p> <p>13 CLERK: Ninety-eight, 101, 102. Then I have 132,</p> <p>14 133, 134, 135, 136, 137, and then ECF 32, ECF 78, ECF 79,</p> <p>15 ECF 80, ECF 81, ECF 82, ECF 83, ECF 84, Red River 1, Red</p> <p>16 River 2, Red River 3, Red River 4, Red River 5, Red River 6,</p> <p>17 Red River 7, Red River 8, Red River 9, Red River 10, Red</p> <p>18 River 11, ECF 141-11.</p> <p>19 MR. VERSTANDIG: Just for clarification, backing</p> <p>20 up, my note is that on seven and eight, they're not</p> <p>21 introduced for the truthfulness of the assertions contained</p> <p>22 therein. It's a complaint and a motion for summary judgment</p> <p>23 in state court. And we stipulated to their admissibility,</p> <p>24 but not to the validity of the assertions.</p> <p>25 MS. STANLEY: Right, just that basically there'd</p>	<p>1 executive order.</p> <p>2 MS. TANABE: Oh, yeah.</p> <p>3 MR. HUSHKA: The judicial notice --</p> <p>4 THE COURT: Notice.</p> <p>5 MR. HUSHKA: Yeah.</p> <p>6 THE COURT: And then --</p> <p>7 MR. VERSTANDIG: (Indiscernible) taking judicial</p> <p>8 notice that there is a pandemic, right?</p> <p>9 THE COURT: Yes.</p> <p>10 MS. TANABE: Yes.</p> <p>11 MR. VERSTANDIG: Okay.</p> <p>12 MR. HUSHKA: The date of the declaration, I</p> <p>13 believe.</p> <p>14 MR. VERSTANDIG: Yeah. That was a fun sideshow.</p> <p>15 CLERK: And then 175, 176, 177, only the</p> <p>16 Attachments A through I.</p> <p>17 MS. STANLEY: Yes.</p> <p>18 CLERK: And then 181, and 182-2 Exhibit 2.</p> <p>19 MR. VERSTANDIG: Yes.</p> <p>20 THE COURT: That was not easy.</p> <p>21 MS. STANLEY: I'm just tired.</p> <p>22 THE COURT: Okay.</p> <p>23 CLERK: We're all good?</p> <p>24 THE COURT: We're all good.</p> <p>25 CLERK: Okay.</p>
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<p>1 been a foreclosure filed.</p> <p>2 MR. HUSHKA: It exists.</p> <p>3 MS. STANLEY: It exists, and that a partial motion</p> <p>4 had been filed.</p> <p>5 MR. VERSTANDIG: Agreed. Same with Red River 9,</p> <p>6 for what it's worth.</p> <p>7 MS. STANLEY: Yeah.</p> <p>8 CLERK: I believe I said ECF 141-11 and 141-12.</p> <p>9 MR. HUSHKA: Yeah.</p> <p>10 CLERK: And 141-13, 141-14, 141-15.</p> <p>11 MS. TANABE: Did we miss 114.</p> <p>12 MS. STANLEY: There was exhibit --</p> <p>13 MS. TANABE: Exhibit 25?</p> <p>14 MS. STANLEY: So to the transcript of Jesse Craig,</p> <p>15 there was an Exhibit 25, the summary, contractor summary</p> <p>16 disbursement. That one had been admitted.</p> <p>17 THE COURT: Just the exhibit.</p> <p>18 MS. STANLEY: Just that exhibit.</p> <p>19 THE COURT: That's what I have.</p> <p>20 MS. STANLEY: Yeah.</p> <p>21 MS. TANABE: Okay. Sorry to interrupt.</p> <p>22 CLERK: And then I have -- yes, that's right.</p> <p>23 Exhibit 25 to Doc 114.</p> <p>24 MS. TANABE: Yes.</p> <p>25 CLERK: And then the state of South Dakota</p>	<p>1 THE COURT: You can close the record.</p> <p>2 (Whereupon, at 4:30 p.m., these proceedings were</p> <p>3 concluded)</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>



CERTIFICATION

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I, Sonya Ledanski Hyde, certified that the foregoing transcript is a true and accurate record of the proceedings.

*Sonya M. Ledanski Hyde*

Sonya Ledanski Hyde

Veritext Legal Solutions  
330 Old Country Road  
Suite 300  
Mineola, NY 11501  
Date: December 2, 2025

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